



# आरत का राजपत्र

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सं. 51] नई दिल्ली, दिसम्बर 13—दिसम्बर 19, 2015, शनिवार/अग्रहायण 22—अग्रहायण 28, 1937

No. 51] NEW DELHI, DECEMBER 13—DECEMBER 19, 2015, SATURDAY/AGRAHAYANA 22—AGRAHAYANA 28, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।  
 Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड ( ii )

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India

(Other than the Ministry of Defence)

## वित्त मंत्रालय

(व्यव विभाग)

नई दिल्ली, 10 दिसम्बर, 2015

का.आ. 2287.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भारतीय लेखा परीक्षा और लेखा विभाग के निम्नलिखित कार्यालयों को, जिनके अस्ती प्रतिशत कर्मचारिवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :

- महानिदेशक लेखापरीक्षा (केन्द्रीय प्राप्ति), नई दिल्ली ।
- महानिदेशक लेखापरीक्षा (केन्द्रीय प्राप्ति), नई दिल्ली, (शाखा कार्यालय ग्वालियर)।
- प्रधान निदेशक लेखापरीक्षा रेल-वाणिज्यक काफमौ, भारतीय रेल तिलक ब्रिज, नई दिल्ली ।
- महालेखाकार (लेखापरीक्षा), उत्तराखण्ड, देहरादून ।

- प्रधान महालेखाकार (लेखा एवं हक) असम, गुवाहाटी ।
- प्रधान निदेशक लेखापरीक्षा (केन्द्रीय), चंडीगढ़ ।
- महानिदेशक वाणिज्यक लेखापरीक्षा एवं पदेन सदस्य, लेखापरीक्षा बोर्ड-IV, नई दिल्ली, (शाखा कार्यालय)।
- प्रधान निदेशक लेखापरीक्षा (केन्द्रीय), शाखा कार्यालय राजस्थान, जनपथ, जयपुर ।

[सं. ए-12034/02/2014-ई जी]

एनी जॉर्ज मैथ्यू, संयुक्त सचिव

## MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 10th December, 2015

S.O. 2287.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Government of India in the Indian Audit and Accounts Department, in which eighty

per cent of the staff have acquired the working knowledge of Hindi, namely:-

1. Office of the Director General of Audit (Central Receipt), New Delhi.
2. Office of the Director General of Audit (Central Receipt) New Delhi (Branch office Gwalior).
3. Office of the Principal Director of Audit Railway-Commercial, New Delhi.
4. Office of the Accountant General (Audit), Uttarakhand, Dehradun.
5. Office of the Principal Accountant General (Accounts and Entitlements) Assam, Guwahati.

6. Office of the Principal Director of Audit (Central) Chandigarh.
7. Office of the Principal Director General of Commercial Audit and ex-officio Member, Audit Board- IV, New Delhi (Branch Office).
8. Office of the Principal Director of Audit (Central) Branch Office Rajasthan, Janpath, Jaipur.

[No.A-12034/02/2014-EG]

ANNIE GEORGE MATHEW, Jt. Secy.

### उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक व्यूरो)

नई दिल्ली, 12 दिसम्बर, 2015

**का.आ. 2288.**—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उपनियम (3) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा नीचे अनुसूची में दिए गए उत्पादों की मुहरांकन शुल्क अधिसूचित करता है:

#### अनुसूची

भारतीय भाग	अनु- भाग	वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन शुल्क (रु.)	इकाई दर	स्लैब में	शेष प्रचालन तिथि
मानक				बड़े पैमाने पर	एम.एस.एम.	स्लैब 1	इकाईयां	
संख्या					₹.	₹.		
7123	-	-	1993 केश तेल- विशिष्टि	100 लीटर	46530	37224	60	सभी - 01.12.2015
(दूसरा पुनरीक्षण)								

[संदर्भ : सीएमडी-2/16 : 7123]

सी. के. महेश्वरी, वैज्ञानिक 'जी' एवं उपमहानिदेशक (प्रमाणन)

### MINISTRY OF CONSUMERS AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 12th December, 2015

**S.O. 2288.**—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulation 1988, the Bureau of Indian Standards, hereby notifies the Marking fee for the products given in the schedule:

#### SCHEDULE

IS No.	Part	Sec	Year	Product	Units	Minimum Marking Fee (Rs.)	Unit Rate	Units in Slab-1	Remaining Slab-1	Effective Date
					Large Scale	MSME	Slab-1	(Rs.)		
7123	-	-	1993	Hair Oils - Specification (Second Revision)	100 Litre	46530/-	37224/-	60/-	All	- 01.12.2015

[Ref: CMD-II/16 : 7123]

C. K. MAHESHWARI, Sc. 'G' & DDG (Certification)

## स्वास्थ्य एवं परिवार कल्याण मंत्रालय

( स्वास्थ्य एवं परिवार कल्याण विभाग )

नई दिल्ली, 12 नवम्बर, 2015

**का.आ. 2289.**—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, सम्बद्ध विश्वविद्यालय के परिवर्तन के कारण भारतीय आयुर्विज्ञान परिषद से परामर्श करने के पश्चात्, एतद्वारा उक्त अधिनियम की प्रथम अनुसूची में कुछ और निम्नलिखित संशोधन करती है, अर्थात् :

“उत्कल विश्वविद्यालय भुवनेश्वर, ओडिशा” के उपरांत उपर्युक्त पहली अनुसूची में “शिक्षा ‘ओ’ अनुसंधान विश्वविद्यालय भुवनेश्वर, ओडिशा” जोड़ा जाएगा और “मान्यता प्राप्त चिकित्सा योग्यता” (कॉलम 2 में) शीर्षक के तहत और “पंजीकरण के लिए संक्षेपण” (कॉलम 3 में) शीर्षक के तहत “शिक्षा ‘ओ’ अनुसंधान विश्वविद्यालय भुवनेश्वर”, ओडिशा के सामने निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात्:-

2

3

बैचलर ऑफ मेडिसिन

एम. बी. बी. एस

तथा बैचलर ऑफ सर्जरी

(मार्च 2014 को अथवा उसके बाद चिकित्सा विज्ञान एवम् एसयूएम अस्पताल, भुवनेश्वर, ओडिशा में प्रशिक्षित किए जा रहे छात्रों के संबंध में शिक्षा ‘ओ’ अनुसंधान विश्वविद्यालय भुवनेश्वर, ओडिशा द्वारा स्वीकृत किए जाने पर मान्यताप्राप्त चिकित्सा अर्हता होगी।)

[सं. यू. 12012/411/2014-एमई-I]

डी. वी. के. राव, अवर सचिव

## MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 12th November, 2015

**S.O. 2289.**—In exercise of the powers conferred by sub-section (2) of Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, due to change of affiliating University, namely :

In the said First Schedule after "Utkal University, Bhubaneswar, Odisha" "Siksha 'O' Anusandhan University, Bhubaneswar, Odisha" shall be added and against "Siksha 'O' Anusandhan University, Bhubaneswar, Odisha" under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading 'Abbreviation for Registration' [in column (3)], the following shall be inserted, namely:—

2

3

"Bachelor of Medicine and Bachelor of Surgery

M.B.B.S.

(This shall be a recognised medical qualification when granted by Siksha 'O' Anusandhan University, Bhubaneswar, Odisha in respect of students being trained at Institute of Medical Sciences & SUM Hospital, Bhubaneswar, Odisha on or after March, 2014.

[No. U.12012/411/2014-ME-I]  
D. V. K. RAO, Under Secy.

## विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 11 दिसम्बर, 2015

**का.आ. 2290.**—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद् द्वारा, केंद्र सरकार भारत के उच्चायोग, वेलिंग्टन में श्री बिधान चंद्रा साधुखाँ, सहायक को दिनांक 11 दिसम्बर, 2015 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2015]

प्रकाश चन्द, उप सचिव (कोंसुलर)

## MINISTRY OF EXTERNAL AFFAIRS

## (CPV Division)

New Delhi, the 11th December, 2015

**S.O. 2290.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Bidhan Chandra Sadhukhan, Assistant as Assistant Consular Officer in the High Commission of India, Wellington to perform the Consular services with effect from 11 December, 2015,

[No. T. 4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 9 दिसम्बर, 2015

**का.आ. 2291.**—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद् द्वारा, केंद्र सरकार भारत के प्रधान कोंसलावास, इस्तांबुल में श्री हरी परकाश, सहायक को दिनांक 9 दिसम्बर, 2015 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी. 4330/01/2015]

प्रकाश चन्द, उप सचिव (कोंसुलर)

New Delhi, the 9th December, 2015

**S.O. 2291.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Hari Parkash, Assistant as Assistant Consular Officer in Consulate General of India,

Istanbul to perform the Consular services with effect from 9 December, 2015,

[No.T. 4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 9 दिसम्बर, 2015

**का.आ. 2292.**—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद् द्वारा, केंद्र सरकार भारत के उच्चायोग, निकोसिया में श्री संजय कुमार डे, सहायक को दिनांक 9 दिसम्बर, 2015 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी. 4330/01/2015]

प्रकाश चन्द, उप सचिव (कोंसुलर)

New Delhi, the 9th December, 2015

**S.O. 2292.**—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Sanjay Kumar Dey, Assistant as Assistant Consular Officer in the High Commission of India, Nicosia to perform the Consular services with effect from 9 December, 2015.

[No.T. 4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

## श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2293.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 16/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/250/2000-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th December, 2015

**S.O. 2293.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the

Industrial Dispute between the management of Victoria West Colliery of M/s. BCCL and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/250/2000-IR (C-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

**PRESENT:**

Sri Pramod Kumar Mishra, Presiding Officer

**REFERENCE NO. 16 OF 2001**

**PARTIES:**

The management of Victoria West Colliery  
of M/s. BCCL

**Vs.**

Sri Feli Pathar & 5 others

**REPRESENTATIVES:**

For the management : Sri P. K. Das, Ld. Adv.  
(ECL)

For the union (Workmen) : Sri Ganesh Roy, Ld. Adv.  
(Workmen)

Industry : Coal State : West Bengal

Dated : 03.11.2015

**AWARD**

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/250/2000-IR(C-II) dated 27.04.2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

**SCHEDULE**

“Whether the action of the management of Victoria and Victoria West Colliery under M/s. B.C.C.Ltd. in not regularizing/absorbing Shri Feli Pathar, Shri Rajoo Mondal, Shri Ashish Majee, Shri Habu Mondal, Shri Manik Gorai and Shri Paresh Gorai in Category-I job w.e.f. 1992 is legal and justified? If not, to what relief the workmen is entitled? ”

Having received the Order No. L-22012/250/2000-IR(C-II) dated 27.04.2001 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 16 of 2001 was registered on 18.09.2006 and accordingly an order to that effect was passed to issue notices through the

registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri P. K. Das, Learned Advocate for the management is present. But none appears on behalf of the workmen.

On perusal of the case record I find that advocate of the workmen last appeared at the court on 21.08.2013. Thereafter neither workmen nor their advocate turned up before the court. Registered notices were issued to workmen on 20.08.2014 and 30.03.2015. Even 3 (three) dates were granted after service of last notice but none of the workmen appeared. It seems that the workmen are not at all interested to proceed with the case any further. The case is also very old – of the year 2001. So I think there is no reason to keep this old record pending without any fruitful result. Hence the case is closed and accordingly a ‘No Dispute Award’ is passed.

**ORDER**

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2294.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 34/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/340/1992-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2294.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/93) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Sasti Sub Area of WCL and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/340/1992-IR (C-II)]  
RAJENDER SINGH, Section Officer

## ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT,  
JABALPUR  
NO. CGIT/LC/R/34/93**

Shri Mohd. Salim,  
Sasti Township,  
Q.No. 40/6, PO Sasti,  
Tehsil Rajura,  
Distt. Chandrapur (Maharashtra) ...Workman

Versus

Sub Area Manager,  
Sasti Sub area of WCL,  
PO Sasti, Rajura,  
Distt. Chandrapur (Maharashtra) ...Management

## AWARD

Passed on this 6th day of November 2015

1. As per letter dated 4-2-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/340/92-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of Sub Area Manager, Sasti sub Area of WCL, Ballarpur Area, PO Sasti Tahsil Rajura, distt. Chandrapur in dismissing the services of Shri Mohammed Salim vide letter No. WCL/BA/SAM/SSA/483 dated 19-2-92 is justified or not? If not, to what relief, the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. In pursuance of letter dated 4-2-93 with reference to the dispute under reference sent to workman instead of submitting statement of claim, he submitted application contending that in letter dated 26-10-92, ALC, Chandrapur clearly stated that the workman was ready for arbitration but management refused for arbitration. He alleged that management was harassing to him framing charges one or other against him. Reply is filed that ALC Chandrapur are self explanatory that management does not want to settle the issue torturing intentionally. That charges leveled against 2 more workers in the same incident in the case. That no punishment is imposed against other workers. The arbitration was refused by management only to prolong the matter further. Workman reiterated that he was subjected to harrass by management since past 3 years. He was leveled in starving conditions.

3. 2nd party filed Written Statement at Page 5/1 to 5/6 opposing claim of the workman. That 2nd party submits that 1st party workman Mohd Salim was employed in Sasti

Open Cast Mine, WCL. Since his appointment, workman was in habit of abusing and threatening co-worker and his superiors. He used to threaten and abuse co-worker inspite of repeated warnings. That on 1-6-90, employee A.B.Kharted received minor injury in his finger, he was provided first aid, he was also provided ambulance for taking him to dispensary. Taking this incident as an issue, workman alongwith others workman in 3rd shift abused Reddy, Shift Under Manager, L.S.Reddy, JET(M) and Shri N.Mahanta, Under Manager in filthy language and also tried to assault Shri P.V. Reddy. He caught collar of Reddy to beat him. At instigation of workman, strike was started. After issuing chargesheet, enquiry was initiated against workman. Enquiry was conducted on different dates issuing public notice. On 22-10-90, workman disclosed name of his co-worker to avail his assistance in Enquiry Proceedings. Enquiry was adjourned to various dates. Statements of management's witnesses 1 to 4 were recorded. The statements of 10 defence witnesses were recorded. Principles of natural justice were followed. Considering the report of Enquiry Officer, charges against workman were proved. The punishment of dismissal was imposed. 2nd party also pleaded that if enquiry is found not properly conducted, permission be granted to prove misconduct adducing evidence on merit.

4. Earlier chargesheet were issued to workman dated 24-6-87. Punishment of 10 days, punishment of 10 days suspension was imposed. Again chargesheet was issued on 16-1-88, leniency was shown and warning was issued to workman. Workman was again issued chargesheet dated 23-3-90 for causing willful damage to work in progress or property of the employer, threatening, abusing and assaulting. Instead of repeated particulars given to workman, no improvement was shown. Workman is habitual in committing misconduct. Management has lost confidence in him. The relief of reinstatement may not be allowed to workman.

5. Workman filed rejoinder at Page 9/2 to 9/7. In rejoinder, workman contended that he was appointed on post of Driver. He was president of the branch of RKKMS Union affiliated to INTUC. The alleged incident took place on 1-6-90 in night around 12.30 AM. The allegation in the chargesheet pertains to workman abusing Reddy and Mahanta. He denied charges against him filing reply dated 5-8-90. He had requested in writing to examine 12 witnesses. He also asked for copy of complaint. That witness Shri Shaukat Hussain Security Guard and Welfare officer were not examined. Workman had requested change of Enquiry officer vide letter dated 9-3-91 alleging Enquiry Officer was hostile against him. That similar chargesheets were issued to R.R.Yadav, D.S.Yadav operator on duty in 1st shift. They were initially suspended and enquiry was initiated. However both of them were let off and reinstated in service. It is alleged that management adopted different tactics to enquire into identical charge. Workman was

dismissed from service. Findings of Enquiry Officer are perverse. Shri R.R.Yadav, D.S.Yadav were not punished by the management. Workman reiterates that enquiry was initiated. He was not supplied Enquiry Proceedings and Enquiry Report.

6. As per order dated 17-4-14, enquiry conducted against workman is held proper and legal. Secondly Issue No.1, 2 framed are also decided, only Issues No. 3 to 5 are required to be decided which are as under:-

(iii) Whether the charges of misconduct are proved from facts of the case?	In Affirmative
(iv) Whether the punishment awarded against workman is proper and legal?	In Affirmative
(v) Relief and costs?	Workman is not entitled to any relief.

### REASONS

7. Enquiry conducted against workman is found proper and legal as per order dated 17-4-14. Secondly the management need no permission to prove misconduct/ charges alleged against workman, whether charges alleged against workman are proved requires to be decided from evidence in Enquiry proceedings. Management examined 4 witnesses before Enquiry Officer. Shri P.B. Reddy, L.S. Reddy & Mahanta. Learned counsel for Ist party workman Shri Faridi did not adduce any argument about evidence of management's witnesses or the evidence of 10 defence witnesses. The powers of judicial review are restricted. The powers cannot be exercised to re-appreciate order of Appellate Authority. Chargesheet is produced at Exhibit W-1. Charges alleged against workman relates to abusing in indecent language to Shri D.S.Yadav, R.L.Yadav, Mahanta holding P.B. Reddy by his collar and assaulting with chappal. Documents Exhibit W-4 to W-10 pertain to Enquiry Proceedings. Exhibit W-11 is order of dismissal of workman. Exhibit W-12 to 14 pertains to Enquiry Proceedings. Management produced documents of enquiry at Exhibit M-1 to M-9. Ist party workman produced copies of chargesheet issued to workman. Ist party workman at Exhibit W-16 it is identical to Exhibit W-1. Chargesheet issued to Shri D.S.Yadav Exhibit W-17 chargesheet issued to Shri R.R.Yadav, Exhibit W-18 is chargesheet issued to D.S.Yadav, R.L.Yadav are only abusing indecent language to Shri Reddy and Mahanta whereas chargesheet issued to Ist party workman pertains in addition to holding collar of Shri P.B. Reddy and assaulting him by chappal. The documents received by workman under RTI Act are also produced by workman with findings of Enquiry Officer, charges against Shri R.L.Yadav and D.S.Yadav were not proved.

8. As stated above whether charges against workman are proved from evidence in enquiry, the evidence of management's witness Shri P.B.Reddy is clear that workman had abused in indecent language in name of his mother, sister. He was caught by his collar and assaulted with chappal. His evidence is corroborated by other witnesses of management. Evidence of management's witnesses workman had caught hold collar of Shri P.B.Reddy and assaulted him with chappal is not shattered in his cross-examination. As discussed above, the re-appreciation of evidence by Appellate Authority is not permissible. Learned counsel for management has not adduced any argument about evidence of witnesses of both side in enquiry proceedings.

9. Learned counsel for Ist party workman Shri Paridi emphasized only on the point that Shri D.S.Yadav and R.L.Yadav though found guilty for similar charges, no punishment were imposed against them. The documents produced with Exhibit 14 under RTI Act, R.L.Yadav was permitted to join duty from 29-7-90. Shri D.S.Yadav was permitted to join duty from 29-7-90 vide letter Exhibit W-15. The evidence in Enquiry Proceedings is sufficient to establish charge against workman. Therefore I record my finding in Point No. 3 in Affirmative.

10. Issue No. 4- Whether punishment of dismissal against workman is proper and legal needs to be decided. Argument are advanced by learned counsel for Ist party that Shri D.S.Yadav, R.L.Yadav also were issued similar chargesheet were not punished, they were allowed to join duty as per letter produced with Exhibit W-14,15. Learned counsel submits that workman was discriminated. Above two workers issued similar chargesheet were let off, no punishment was imposed against them and therefore he punishment of dismissal against workman deserves to be set-aside.

11. In support of his argument, learned counsel also relies on ratio held in

Judgment dated 13-2-13 in case of Rajendra Yadav versus State of MP and others reported in Civil Appeal No. 1334 of 2013. In Para 13 of the judgment, their Lordship discussed the principles stated above is applied in few judgments of this court. The earliest one is Director General of Police and others versus G.Dasayan 1998(2) SCC 407 wherein one Dasayan a police constable alongwith two other constables and one Head constable were charged for the same acts of misconduct. The Disciplinary Authority exonerated two other constables but imposed the punishment of dismissal from service on Dasayan and that of compulsory retirement on Head Constable. This court in order to meet the ends of justice substituted the order of compulsory retirement in place of order of dismissal from service.

In para 14 of the judgment, their Lordship discussed we are of the view that principle laid down in the above mentioned judgments also would apply to the facts of the present case. We have already indicated that the action of the Disciplinary authority imposing a comparatively lighter punishment to the co-delinquent Arjun Pathak and at the same harsher punishment to the appellant cannot be permitted in law, since they were all involved in the same incident. Consequently we are inclined to allow the appeal by setting aside the punishment of dismissal from service imposed on the appellant and order that he be reinstated in service forthwith.

12. Counsel for workman Shri Faridi also relies in

Case of Jitendra Prasad Singh and others versus Tata engineering and Locomotive Company reported on 22-5-98 by Patna High Court. Reading of Para 4 last 4 lines clearly shows that complaint was also lodged by Shri Mishra before the management of the same company in which the allegation was leveled against four workmen including the appellant about assaulting him in the said canteen ball and on his way to the security room of the plant.

In Para 52, his Lordship discussed on the question of discrimination on the part of the dismissal in awarding punishment of dismissal in favour of the appellant and Gurudayal whereas not imposing a much lesser punishment in case of K.K. Mishra, the Tribunal has given an elaborate finding in para 57 of the Award. In Para 57 of the award, the Tribunal has given a categorical finding that the charge against Shri K.P. Singh and the appellant was the same. The seriousness of allegation against all the three employees was the same. The enquiry Officer who conducted the enquiry against K.P. Singh also found him guilty of the charges leveled against him but the punishing authority awarded K.P. Singh only the punishment of 30 days suspension adjustable against the period of suspension already undergone whereas passed orders of dismissal against the appellant. This shows that the management indulged in discrimination and victimization.

In last concluding para in the case at hand, since as many as three workmen on almost identical charges were found guilty of misconduct in connection with the same incident, though in separate proceedings and one was punished with only one month's suspension and the other was ultimately reinstated in view of the findings recorded by the Labour Court and affirmed by the High Court and Supreme Court, it would be denial of justice to the appellant if he alone is singled out for punishment by way of dismissal from service.

13. Reliance is also placed on judgment in

Case of Punjab National Bank and others versus K.K. Verma dated 7-9-2010. In Para-32 of the judgment, their

Lordship observed workman may also add that the competent authority may as well consider that when the respondent was removed, his date of retirement viz 30-9-87 was round the corner. We however make it clear that it is for the competent authority to consider these aspects, when he takes steps in accordance with the impugned judgments which we confirm with the modification as above.

14. Learned counsel for 2nd party Shri A.K. Shashi submits that charge against workman are not identical to the charge against B.R. Yadav, D.S. Yadav. charges alleged against them were only of abusing in indecent language whereas charge against workman was assaulting Shri Reddy with chappal. Those arguments are supported from wage sheet Exhibit W-1 to W-16. Charges against workman and D.S. Yadav, R.B. Yadav are not identical. The evidence of management's witness is clear that workman had caught hold collar of Shri P.B. Reddy and assaulted him with chhappal.

15. Learned counsel for 2nd party Shri A.K. Shashi submits that the proved charges are not same and similar. Therefore it cannot be said that workman was discriminated imposing punishment of dismissal. In support of his argument, learned counsel relies on ratio held in

Case of D.K. Saxena versus Coal India Limited reported in 1995-MPLJ430. Their Lordship observed removal of petitioner from service on charge of misconduct, other officers chargesheeted were exonerated after enquiry and eventually promoted by company. Charges against them and petitioner not identical. Their Lordship held as regard discrimination in matter of punishment, the principle to be followed is of equality among equals. Non-equals cannot be treated equally. In a corporation where there are several layers of supervisory control, the duties and responsibilities of persons at all levels cannot be expected as identical. If in such a situation, different persons are differently punished and some are even exonerated on consideration of facts and circumstances of the case and in view of different charges against them, no complaints of discrimination can be made.

16. Shri A.K. Shashi relies on ratio held in

Case between Krishnakali Tea Estate versus Akhil Bharatiya Chah Mazdoor Sangh and another reported in 2004(8) SCC-200. Their Lordship dealing with misconduct and penalty proportionality held charges of causing damage to property, gherao of the management, wrongfully confining manager. The charges are sufficient and grave enough by themselves to establish misconduct punishable under the standing orders applicable to the workmen concerned.

Their Lordship held settlement in respect of misconduct with some of the workmen involved would not in any way alleviate the gravity of the misconduct in respect of those workmen who had chosen to challenge the finding of misconduct.

In case between West Bokaro Colliery versus Ram Pravesh Singh reported in 2009-I-LLJ-220(SC) relied by Shri A.k.shashi. their Lordship observed the standard of proof in departmental proceedings is different from that in criminal case.

In present case, the charges against workman were of abusing in indecent language to Shri Reddy and two others. The charges of holding collar of Shri Reddy and assaulting by chappal by workman are proved from evidence in Enquiry Proceedings. Assaulting senior officer and holding his collar is certainly a misconduct of serious nature. As charges against workman and Shri B.S.Yadav, R.L.Yadav were not identical, charge against workman of assaulting Reddy in the punishment of dismissal imposed against workman cannot be said discriminatory when identical charges were not alleged against Shri B.S.Yadav and R.L.Yadav.

17. Shri A.K. Shashi further relied on ratio held in case of

Mahendra Nissan Allwyns Ltd versus M.P.Siddappa and another reported in 1999-SCC(L&S)-1067. Their Lordship dealing with quantum of propriety, workman leading out workmen from factory regardless of challenge by security guard, entering the room of a senior officer threatening and abusing him and another officer in filthy language and misbehaving with certain other officers of the company. Such acts held were acts of serious misconduct. Hence punishment of removal from service held was not disproportionate to said charge.

The ratio in above cited case is clear that when superior officer is assaulted and abused, the punishment of removal is not disproportionate. In evidence in present case, charges proved against workman includes holding collar and assaulting him with chappal is certainly a serious misconduct, therefore punishment of dismissal against workman does not call for interference. For above reasons, I record my finding in Point No.2.

18. In the result, award is passed as under:-

(1) The action of the management of Sub Area Manager, Sasti Sub Area of WCL, Ballarpur Area, PO Sasti Tahsil Rajura, distt. Chandrapur in dismissing the services of Shri Mohammed Salim is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2295.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डल्लूसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 65/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/99/2001-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2295.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of Damua Sub Area Group WCL and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/99/2001-IR (CM-II)]  
RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/65/02

General Secretary,  
BKKMS(BMS), PO Parasia,  
Distt. Chhindwara (MP) ... Workman/Union

Versus

Dy.CME,  
Damua Sub Area Group,  
PO Damua,  
Chhindwara ... Management

#### AWARD

Passed on this 9th day of October 2015

1. As per letter dated 17-4-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/99/2001-IR(CM-II). The dispute under reference relates to:

“Whether the action of the Manager, Damua Colliery, WCL Kanhan Area, PO Damua, Distt. Chhindwara (MP) in not regularizing Shri Rajendra Mishra of Damua Colliery is Clerical Grade-II w.e.f. 1-1-1981 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through General Secretary of BKKMS Union at Page 3/1 to 3/15. Case of Ist party workman is that workman Rajendra Mishra was appointed as General Manager in Damua colliery on 12-11-93. He was promoted to the post of Transport clerk in Grade III from 1-5-75. Subsequently he was confirmed on promotion post after completion of period of 3 months. That on requirement of attendance clerk, he had filed application to the Manager, Damua colliery. Manager passed direction to Assistant Manager to engage workman as rest reliever for attendance clerk from 24-4-79. Accordingly workman was placed as rest reliever attendance clerk in different shifts from 24-4-79. The difference of wages between clerk Grade III and Clerk Grade II was paid to him month to month. Management not considered workman for regularisation on the post of Attendance Clerk Grade II despite he was working on said post since 25-4-79. The demand for regularisation of workman on post of clerk Grade II was over looked by the management. Workman had personally approached Manager and Asstt. Manager for his confirmation of post of Clerk Grade II. He had furnished record of his attendance from January to December, 1980. In para 5 of the statement of claim, the details of the work that the workman had worked on the post of clerk Grade II for 241 days in 1980. Workman was promoted to the post of Clerk Grade II on 8-2-84. Workman reiterates that he should have been allowed regularisation on post of clerk Grade II from 1-1-1980 as he was already working. Ist party has also reproduced provisions of Regulation 57 of Coal Mines Regularisation 1957 and refers to ratio held in case of K.N.Jawahar versus Lignite Corporation, Hindustan Lever Ltd. in support of his claim.

3. 2nd party filed Written Statement at page 5/1 to 5/6 opposing claim of workman. 2nd party raised preliminary objection that workman was appointed as General mazdoor. He was promoted time to time. The dispute raised by workman claiming promotion to the post of Clerk Grade II from 1-1-1981. The dispute is raised in 2000 is highly belated. That promotion cannot be claimed as matter of right. The promotion is based on recommendation of DPC, administrative requirement, availability of sanctioned post. On above ground, the reference is not tenable.

4. 2nd party further submits that it is registered under Companies Act having office at Nagpur. It is subsidiary of Coal India Ltd., a Government undertaking. That terms and conditions of employment are covered by

NCWA and standing orders applicable to the company. In NCWA cadre scheme, the promotional challen for clerical cadre is provided. Ist party workman was appointed as General Mazdoor on 24-8-73. He was promoted to the post of Clerk Grade III in 1975, post of Clerk Grade II on 11-2-84. The dispute is raised by BKKMS Union. Workman was promoted to the post of Clerk Grade I as per order dated 5-3-05. Workman was already promoted to the post of Clerk Grade II on 11-2-84 subsequently promoted to Clerk/Grade I. Claim of workman is based on ground that he was promoted to work as Clerk Grade II. It doesnot give right for regularisation to the post of Clerk Grade II. Workman was allowed to work as reliever for few months. He never performed work of attendance clerk continuously as management has enough employee in said cadre. That despite of several reasons, the services of workman were used as reliever. Workman was paid difference of wages. However it doesnot give right of promotion to the workman over-riding the cadre scheme. On such ground, 2nd party prays that claim of workman be rejected.

5. Workman filed rejoinder reiterating its contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the Manager, Damua Colliery, WCL Kanhan Area, PO Damua, Distt. Chhindwara (MP) in not regularizing Shri Rajendra Mishra of Damua Colliery is Clerical Grade-II w.e.f. 1-1-1981 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

## REASONS

7. **Point No.1-** workman is claiming regularisation to the post of Clerk Grade II from 1-1-1981 contending that he was working as attendance clerk. The documents produced by workman Exhibit W-1 workman was promoted to the post of clerk Grade III from 1-5-75. Exhibit W-2 workman had submitted application for transfer to A B Incline No.20,21 to allow him to work as Attendance Clerk. The application bears endorsement of Manager “ if possible put him as rest reliever of attendance clerk”. Exhibit W-3 shows that during Jan to Dec-90, workman worked for 241 days as attendance clerk. Exhibit W-4 is application submitted by workman requesting regularisation as clerk Grade II from 1-1-1980. Exhibit W-5 is order of promotion of workman from Clerk Grade III to clerk Grade II dated 11-2-1984. Exhibit W-6 is copy of order

Exhibit W-5 allowing promotion to workman on clerk Grade II.

8. Management produced documents Exhibit M-1 reply submitted before ALC. Said document shows that workman was allowed to work as relieving attendance clerk. He was paid wages for the period of his working. Cadre scheme is produced at Exhibit M-2. For post of clerk Grade II, eligibility criteria is 3 years experience as clerk in Grade III, mode of promotion is on recommendation by DPC. Exhibit M-3 is order of promotion of workman to clerk Grade I dated 5-3-05. Exhibit M-4 is copy of reply filed before ALC.

9. Workman filed affidavit of his evidence supporting his contentions in statement of claim that he was working as Attendance Clerk for 241 days. In his cross-examination, workman says his first appointment was as General Mazdoor from 12-11-1973. He passed metric, he was Vice President of BMS Union. He was office bearer of said Union from 1995 to 2008. Union had taken decision for resuming his dispute. In 1979 when Shri Vijay was Asstt. Manager, he was posted as transport clerk, token clerk. The post of transport clerk, token clerk were of different grade. Post of clerk Grade II is of direct appointment as well by promotion. Workman again insisted that post of Clerk Grade II is not directly filled. The cadre scheme for clerical post is provided. In his further cross, workman says in 1975, he was selected by Manager on the post of Clerk Grade III. From Clerk Grade III to Clerk Grade II post, he was not appointed on recommendation of DPC. He was not appointed violating the law. In the year 2005, he was promoted from Clerk Grade II to Clerk Grade-I through DPC. He denies that he not requested management for his promotion.

10. Management's witness Shri M.N.Ganvir filed affidavit of his evidence supporting contentions of management in Written Statement. From evidence, document Exhibit M-4 is proved. In his cross-examination, management's witness says he was appointed as Welfare Officer. Presently he was working as Personal Manager. Written Statement was not signed by him but he was conversant with the facts of case. He is leading evidence of management. He claims ignorance whether workman was given late promotion. As workman in his cross-examination has admitted cadre scheme provided for the clerk and copy of cadre scheme Exhibit M-2 provides eligibility for promotion from Clerk Grade III to Clerk Grade II, 3 years experience in Grade III on recommendation of DPC. In 1980, workman was not recommended by DPC. Workman was promoted as clerk Grade II in 1984 and Clerk Grade I in 2005 on recommendation of DPC. Claim of workman for promotion from Clerk Grade III to Grade II is not consistent with cadres scheme. Workman was not recommended by DPC.

11. Learned counsel for workman Shri Verma submitted standing orders and pointed out my attention to Para 3.5, 3.6.

Para 3.5 provides- A permanent workman is one he employed in job of permanent nature for period atleast 6 months or who has satisfactorily put in 6 months continuous service in a permanent post as a probationer.

Para 3.6 provides A permanent means a person who is provisionally employed to fill a vacancy in a permanent post for the period not exceeding 6 months.

Both the paras donot deal with promotion of the employees. Claim of workman for promotion from Clerk Grade III to Clerk Grade II is not covered in Para 3.5, 3.6 of the standing orders.

12. Learned counsel relies on ratio held in case of

Abhijit ghosh Dastidar versus Union of India and others. Reading of para 2nd of the judgment is clear that the respondent department alleged that appellant was not considered for promotion as he was not having the benchmark of very good and quot, according to the appellant the adverse entries namely and quot good and quot were not communicated. Said aspect ought not to have been considered while considering his promotion. In support of above claim, he relied on decision of this Court in Dey Dutt versus Union of India and others 2008(7)Scale403.3 pursuant to the direction of the CAT, Patna Bench on 9-9-02 review of DPC was held and the appellant was not found suitable for promotion. In March 2003, there was a regular DPC and the appellant was found fit for promotion with the same entries and accordingly promoted to higher administrative Grade Group A and later retired from service.

As per above cited judgment, the promotion was allowed on recommendation of DPC in 1980, therefore his claim for promotion form 1-1-1980 cannot be upheld. For above reasons, I record my finding in Point No.1 in Affirmative.

13. In the result, award is passed as under:-

(1) The action of the Manager, Damua Colliery, WCL Kanhan Area, PO Damua, Distt. Chhindwara(MP) in not regularizing Shri Rajendra Mishra of Damua Collieiry is Clerical Grade-II w.e.f. 1-1-1981 is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2296.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 103/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/381/2007-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2296.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.103/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of WCL and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/381/2007-IR (CM-II)]

RAJENDER SINGH, Section Officer

## ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

NO. CGIT/LC/R/103/08

Shri Mohd. Naseem Siddiqui,  
Zonal General Secretary, C.Meva,  
Zonal Vekoli Shakha, Ward No.10, Gudhi,  
Post Palachaurai,  
Chhindwara . . .Workman

## Versus

The Chief General Manager,  
WCL, Pench Area,  
PO Parasia,  
Chhindwara

## AWARD

Passed on this 29th day of October, 2015

1. As per letter dated 6-10-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/381/2007-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of M/S WCL in dismissing Shri Leela Ram w.e.f. 2-11-99 is legal and justified? To what relief the claimant is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by Zonal Secretary of Coal Mines Engineering workers Association at Page 7/1 to 7/2. Case of workman is that Surju father of workman Leelaram was working at Vishnupuri mine, Pench area died in 1994 in the mine accident. He was appointed on compassionate ground in 1996 as tub loader in Thesgora Colliery Pench Area. After death of workman, his widow Ramola bai was felicitated by Central Minister shri Kamalnath. Workman was given assurance to provide work at surface. However he was provided heavy work of tub loader in Pench Area. Workman was physically weak. He was not able to work underground mines. Quarter was not provided to him. Despite of such facts, workman was attending his duties. Any of the officer did not consider his physical weakness. Chargesheet was issued to workman under Clause 26.30. workman had not denied charges against him. Enquiry was conducted. As standing order Clause 28.2 is not classified as serious misconduct, workman was dismissed as per order dated 2-11-99. That clause 13.3 of the standing order provides if workman loses lien, his name should be included in the list of badly workers. Management not followed clause 13.3 of the standing orders. On such grounds, it is prayed that dismissal of workman be set aside and workman be paid compensation with appropriate reliefs.

3. 2nd party filed Written Statement at Page 8/1 to 8/5 opposing claim of the workman. Preliminary objection is raised that workman was dismissed from 2-11-99, the dispute is raised in 2008 after 9 years is not tenable. 2nd party further contends that workman Leelaram was appointed as underground loader on 5-2-96. He was habitual absentee. He remained absent unauthorisely without sanctioned leave or permission. In January to December, 98, attendance of workman was 77 days, chargesheet No.225 was issued to him. Workman submitted reply to chargesheet that he did not report for duty. Management decided to conduct enquiry against workman. Shri A.K.Singh Personal Officer was appointed as Enquiry Officer, C.K.Gupta was appointed as Management Representative. Enquiry was conducted on 2-8-99, 3-8-99. Workman submitted application for adjournment. On 4-8-99, workman was present in Enquiry Proceedings alongwith his co-worker Mr. Shankar. Workman admitted charge against him. Enquiry Officer decided to continue with enquiry. Management's Representative produced documentary evidence pertaining to attendance of workman. Enquiry Officer submitted his report holding charges against workman were proved. Workman was given opportunity for his defence. Showcause notice was issued to workman on

8-10-99 alongwith copy of Enquiry Report. Disciplinary Authority considering serious misconduct proved against workman terminated services of workman as per order dated 2-11-99. 2nd party reiterates that order of termination of workman is justified.

4. 2nd party has denied that workman was incapable of doing underground job. Workman was medically examined and after found medically fit, he was appointed as tub loader. Light job is not given by management. Unless there is recommendation of Medical Board, light job are not practically possible. Management did not dispute chargesheet issued to workman. Workman admitted charges against him. Enquiry was conducted. It is denied that unauthorized absence does not amount to gross misconduct. It is denied that in case of absenteeism of workman, his name is required to be kept in Badli list.

5. As per order dated 9-5-2004, enquiry conducted against workman is found proper and legal.

6. Considering pleadings on record and order on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below :—

"(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

#### REASONS

7. The enquiry conducted against workman is found legal, question whether misconduct alleged against workman is proved needs to be decided considering evidence in Enquiry Proceedings. The documents of enquiry are produced at Exhibit M-5 the record of enquiry at Page 8/17 shows workman admitted charges against him. The record of attendance of workman is produced at Exhibit 5/10. The Enquiry Officer submitted his report Exhibit M-6 shows that workman was readover charges against him, workman admitted the charges. In statement of claim at Page 2, it is pleaded that workman had not denied the charges. Enquiry was conducted against workman. Document Exhibit W-6 reply filed by workman shows that workman was not keeping good health. That he was keeping good health. He would not allow any chance for grievance in his duties. It is apparent that the workman had admitted charges repeatedly. Documents

Exhibit W-1 is order of reference, Exhibit W-2 is copy of notice of conciliation, Exhibit W-4 is application submitted to ALC. Exhibit W-5 is chargesheet, W-7 is letter issued by management dated 3-7-98. Workman was allowed to join duty till completion of Enquiry Proceeding. Exhibit W-8, 9 are memorandum of enquiry. Exhibit W-10 is order of termination, W-11 is copy of standing orders. As workman has repeatedly admitted charges that he was not keeping good health, workman had not given intimation of his illness, he has not produced medical certificate, evidence on record is sufficient to prove charges against him. For above reasons, I record my finding in Point No.1 in Affirmative.

8. **Point No. 2**—2nd party has raised objection that dispute is raised after 9 years is not tenable. On the point, learned counsel for workman Shri Praveen Yadav pointed out my attention to document RG-2 supplied by management shows that the dispute was raised by workman in CHA-1/34. The statement recorded in said conciliation proceeding on 1-7-02 were considered in CHA-129/07. From reading of said document, it is clear that the dispute pertaining to workman was raised in 2002 but the Union had not pursued said proceeding.

9. Considering above aspect, it cannot be said that the dispute is raised after lapse of 9 years. Therefore the ratio relied by learned counsel for 2nd party in 2001-SCC-424, 2002-I-LLJ-457 and other citations in the bunch in case of State of Punjab and others versus Chamanlal Goel, 2005-I-LLJ-1081, 2001-LLJ-567, 2004-II-LLJ-460 needs no detailed discussion.

10. Dealing with Point No.2 whether punishment of dismissal imposed against workman is proper and legal, the misconduct alleged against workman pertains to unauthorized absence. From January 1998 to December, 1998, attendance of workman is shown only 77 days. Charges are proved.

11. Learned counsel for 2nd party Shri Praveen Yadav submits that RJ-1 was chargesheet issued to workman for unauthorized absence from 21-2-98 to 28-6-98. Learned counsel submits that workman cannot be punished again for unauthorized absence for same period. It may amount to double jeopardy. Workman has not produced any evidence that any kind of punishment was imposed against workman on chargesheet RJ-1. No evidence is also produced that enquiry is conducted on such chargesheet against workman. Therefore argument advanced by Shri Praveen Yadav about principles of double jeopardy cannot be accepted.

12. Shri Praveen Yadav submitted copy of award in R/97/01 for my perusal. However the facts of present case are not comparable as the attendance chart in said reference was not proved by valid evidence. In present case, workman has admitted charge against workman

therefore the award passed in R/97/01 cannot be relied for persuasive purpose. Ratio relied in case 2004-13-SCC-342 cannot be applied to present case as no evidence is produced that enquiry is conducted against workman or any kind of punishment was imposed on earlier chargesheet.

13. Learned counsel for 2nd party Shri A.K.Shashi relied on ratio held in case of New India Assurance vesus Vipin Beharilal Srivastava reported in 2008-3-SCC-446. Their Lordship held sick leave can be granted only on production of medical certificate from registered medical practitioner. There is no evidence that workman is punished by the respondent after receipt of the letter from appellant. Their lordship distinguished abandonment of service from unauthorized absence.

14. Workman has not produced medical certificate from Medical officer. Medical Certificate was not produced by workman in Enquiry Proceeding.

15. Shri P.Yadav learned counsel for workman during course of argument submits that benefit under Clause 13.3 of standing order was not given to the workman. When he failed to return within 10 days, his name should have been included in badli list.

16. Clause 13.3 provides—

“If an employee remains absent unauthorised or remains absent beyond the period of leave originally granted or subsequently extended, he will lose his lien on his appointment unless he returns within 10 days from the date of such absence or on the expiry of leave and explains to the satisfaction of the management his inability to remain on duty or to return within 10 days of expiry of leave. In case the employee loses his lien on his appointment, he shall be entitled to be kept on the badli list.”

No doubt management had not included name of workman in badli list, Shri A.K.Shashi submits that benefit of clause 33 of Standing Order is available only when workman returns after 10 days. Workman was absent for long period therefore chargesheet was issued to workman for misconduct under Clause 26.30. Clause 13.3 of standing order not restrict the misconduct covered under clause 26.30. Workman had not attended duty within 10 days, his lien to the appointment was not lost, the enquiry was conducted against workman for the misconduct under Clause 26.30. The charges are admitted by workman, benefit of clause 13.3 of standing order cannot be allowed to workman. The punishment of dismissal against workman doesnot call for any interference. For above reasons, I record my finding in Point No. 2 in Affirmative

17. In the result, award is passed as under:—

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2297.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 1/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/57/2001-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2297.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.103/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Ltd., Pench Area, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/57/2001-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/1/02

General Secretary,  
RKKMS (INTUC),  
PO Chandametta,  
Chhindwara

...Workman/Union

#### Versus

General Manager,  
WCL, Pench Area,  
PO Parasia,  
Distt. Chhindwara (MP)

...Management

#### AWARD

Passed on this 26th day of October 2015

1. As per letter dated 19-12-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D.Act, 1947 as per Notification No. L-22012/57/2001-IR(CM-II). The dispute under reference relates to:

"Whether the action of the Sub area Manager, Thisgora Sub Area of WCL, PO Thisgora, Distt. Chhindwara (MP) in terminating the services of Shri Parasram, Pit Munshi T.No. 530 of Thisgora Underground Mine w.e.f. 2-11-99 is legal and justified? If not, to what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/4. Case of Ist party workman is that he was suffering from bronchitis. Medical certificate was submitted by him to the management time to time. He was on medical leave for 51 days in 1998 as he was suffering from bronchitis. His absence on medical leave should not be treated as misconduct under Rule 26.30 of standing orders. Chargesheet received by workman was replied. Management conducted enquiry. As per report of Medical Officer dated 26-9-99, punishment of termination from service was imposed. Workman submits major punishment imposed against workman is disproportionate. Workman had completed 25 years service. On such ground, workman prays to set aside order of his termination and allow reinstatement with consequential benefits.

3. 2nd party filed Written Statement at Page 6/1 to 6/8 opposing claim of workman. 2nd party contends that workman was working as pit Munshi in Thesgora mine of WCL, Pench Area in 1988. Workman had important role in coal production. Absenteeism without intimation is unexpected. The details of his working days in 1998 are shown in Para 3 of Written Statement. Attendance of workman was only 51 days. Departmental Enquiry was conducted against workman. Memorandum of enquiry were received. Enquiry was conducted on various dates. Workman was not present in enquiry on 2nd, 3rd and 4th August 99. On 30-8-99, enquiry was conducted. Management's witness were cross-examined by workman/co-worker. Management's representative produced Bonus Register, Form-B Register. The evidence was closed. On report of Enquiry Officer, Competent Authority imposed punishment of termination. Workman remained absent without permission or sanctioned leave in 1999. He did not apply for leave. Any authentic evidence was not produced by workman.

4. 2nd party further submits that medical facilities are provided by management to its employees. 200 beds hospital is made available by management. In case of advanced illness, the employees are referred to other hospitals. All other contentions of workman are denied. 2nd party submits that workman is not entitled to any relief.

5. Enquiry conducted against workman was found legal as per order dated 29-10-2013.

6. Considering pleadings on record and order on preliminary issue, the points which arise for my

consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

"(i) Whether the misconduct of unauthorized absence alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of termination imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?	Workman is not entitled to any relief.

### REASONS

7. Enquiry conducted against workman is found legal. The documents of enquiry are produced by management. Exhibit M-1 chargesheet issued to workman shows workman was on duty for 51 days from January to June 98, copy of leave account is produced. The workman had taken 10 days sick leave and 2 days other leave in 1999. Subsequent to the period of unauthorized absence covered in chargesheet Exhibit M-1. In copy of Enquiry Proceedings Page 6/16, the working days of workman are shown at Page 6/17. Management's witness says workman had not given intimation about his absence. Workman was absent. Entries were taken in the register at Page 6/18. Workman in reply to Q.5 says he could not produce the documents of his statement. In reply to Q.6, workman replied that he did not receive treatment in Burkui Hospital as he was getting relief from the tablets. He had not given intimation to the management about his illness. The evidence in Enquiry Proceedings is sufficient to prove charges against workman. It is pertinent to note that workman did not participate in reference proceeding. He failed to adduce evidence on preliminary issue. His evidence was closed on 6-10-10. Even after enquiry was found legal, workman failed to adduce evidence, his evidence was closed on 7-9-14. Considering the evidence in Enquiry Proceedings, I record my finding in Point No.1 in Affirmative. Considering long period of unauthorized absence, punishment of termination from service cannot be said disproportionate. Therefore I record my finding in Point No. 2 in Affirmative.

8. In the result, award is passed as under:-

- (1) The action of the Sub area Manager, Thisgora Sub Area of WCL, PO Thisgora, Distt. Chhindwara (MP) in terminating the services of Shri Parasram, Pit Munshi T.No. 530 of Thisgora Underground Mine w.e.f. 2-11-99 is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2298.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/थ्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 63/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[स. एल-22012/519/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2298.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Ghanshyampur Colliery of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/519/1999-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

**PRESENT:** Sri Pramod Kumar Mishra,  
Presiding Officer

**REFERENCE NO. 63 OF 2000**

**PARTIES:** The management of Ghanshyampur Colliery of M/s. ECL

Vs.

Sri Lalu Bhuria

#### REPRESENTATIVES:

For the management : Sri P. K. Das, Ld. Adv. (ECL)

For the union (Workmen): Sri Rakesh Kumar, President, KMC

**Industry :** Coal

**State :** West Bengal

Dated : 04.11.2015

#### AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/519/99-IR (CM-II) dated 13.07.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

#### SCHEDULE

“Whether the action of the management of Ghanshyam Colliery, M/s.E.C.Ltd. in dismissing Sh. Lalu Bhuria, Boiler Fireman from Service is legal and justified? If not, to what relief the workman is entitled? ”

Having received the Order No. L-22012/519/99-IR(CM-II) dated 13.07.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 63 of 2000 was registered on 01.08.2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both of the parties are absent.

On perusal of the case record I find that Sri Rakesh Kumar, President of the union (Koyla Mazdoor Congress) has made and endorsement on the order sheet to the effect that the workman is no more interested to pursue the case further. Since the union is not interested to proceed with the case further and the workman is neither appearing nor taking any step since 20.08.2013. Hence the case is closed and accordingly a ‘No Dispute Award’ is passed.

#### ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2299.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के

प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 58/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/525/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2299.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Parasea O.C.P. of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/525/1999-IR (CM-II)]

RAJENDER SINGH, Section Officer

## ANNEXURE

## **BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

**PRESENT:** Sri Pramod Kumar Mishra,  
Presiding Officer

REFERENCE NO. 58 OF 2001

**PARTIES :** The Management of Parasea O.C.P.,  
E.C.L.

VS.

Shri Atowari Sah.

## REPRESENTATIVES:

For the management : Shri P. K. Das, Ld. Advocate  
(ECL)

For the union (Workman) : Shri Rakesh Kumar,  
President (KMC)

Industry : Coal State : West Bengal  
Dated : 20.11.2015

## AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the

Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/525/99-IR(CM-II) dated 13.07.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

## **SCHEDULE**

“Whether the action of management of Parasea Colliery under Eastern Coalfields Limited in dismissing the services of Sri Atowari Sah, Under Ground Loader by way of holding ex parte enquiry proceedings is justified? If not, to what relief Shri Atowari Sah is entitled?”

Having received the Order No. L-22012/525/99-IR(CM-II) dated 13.07.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. **58 of 2000** was registered on 01.08.2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. The workman appeared through his representatives, but the management of E.C.Ltd. never appeared through his representatives.

In brief, the facts stated in the written statement of the workman is that workman namely; Sri Atowari Sah was a permanent employee of the company in the post of U.G. Loader of Parasea Colliery having U.M No. 470714. He became ill. While his treatment was going on, he sent information to colliery by registered post. He was not able to attend his duty. He was in the clutches of money lenders and due to his illness he could not pay instalments to the money lenders. The money lenders were threatening him in dire consequences. As such he applied for his transfer. The Agent of Parasea Colliery accorded his consent to release the workman. Consequently transfer order was issued from E.C L Head Quarter, but the delinquent workman was not released. Inspite of releasing the delinquent workman, the management of E.C Ltd. by conducting Ex parte enquiry dismissed the workman. The request of delinquent workman of his transfer was not considered. The management was very much aware that concerned workman was present in the colliery. Inspite of this fact, the Enquiry Officer conducted exparte enquiry. The concerned workman was not given full opportunity to defend his case. The enquiry proceeding is illegal and clear violation of CIL circulars issued in this regards. The workman was absent from only two and half months i.e. from 28.9.97 to 3.12.97 and that too on medical ground.

The workman concerned was not given second show-cause notice before dismissal order which is essential as per directives of the Hon'ble Supreme Court. The concerned workman has no other source of income for maintaining his livelihood, the workman belongs to the weaker section of the Society. He is only forty years old. Management ought to have considered his case sympathetically. The workman has prayed to the tribunal to set aside his dismissal order and pass order to reinstate him in service with full back-wages.

The management of Parasea Colliery of E C Ltd has filed written statement. The management of E C Ltd has stated in his written statement that Desk Officer of Central Government is not authorized to refer the reference. The order of reference is vague and the dispute does not come under the purview of Industrial Dispute Act. The concerned workman was absent from 19.10.96. The management after waiting a considerable period for information regarding the absence of workman, issued him charge sheet dated 10.1.97. The charge sheet was sent by post at his home address, but it returned unserved. After waiting for some time an enquiry was decided to be held by appointing Mr. J.K Khamarih, an Enquiry Officer in terms of Office Order No. POCP/P & IR/97/196 dated 17.3.97 by Agent Parasea O.C.P and he gave report of his enquiry held ex parte on 26.5.97. That thereafter another Enquiry Officer was appointed by letter No. POCP/P & IR/ENQ/97/1126 dated 21st July 1997 and he conducted enquiry on 4.8.97 and submitted his report that till date the workman named in reference did not any information about his absence from 19.10.96. That as per relevant clause of Model Standing Order (vide Cl. No. 17(1)(n) it is the sole duty of the workman to give proper information about his absence and whereabouts. The General Manager of the colliery by his letter dated 26/29.8.97 dismissed the workman, copy of dismissal order was sent to his home address and the dismissal order is in compliance of natural justice. That if for any reason the tribunal finds that the enquiry is not in accordance with natural justice, the tribunal may give opportunity to employer to prove the charge on merit. The dismissal order is just, fair and proper and quite proportionate to the gravity of misconduct of the workman.

The workman has filed some documents .The management has filed six Photostat copies of documents.

The workman has filed affidavit in support of his oral evidence. He has not been cross-examined by the learned Advocate of the management.

The tribunal has passed order to proceed ex parte against the management of E C Ltd on 30.9.2015. This reference is one of the oldest references of this tribunal. The reference belongs to the year 2000, though management of E C Ltd has filed written statement, but

has not filed vokalatnama or authorization of his Advocate. There is no representative on behalf of the management to conduct this case. Consequently, the learned Advocate of E C Ltd could not cross-examine the witnesses of the workman. Even after fifteen years past, the management of E C Ltd has not taken care to file Vokalatnama or authorization of his Advocate. In such circumstances the tribunal has no other option except to proceed ex parte against the opposite party i.e. management of E C Ltd.

I have heard the argument of Sri Rakesh Kumar, Union representative appearing on behalf of workman and perused the materials so far available in the case reference. Since there was no Vokalatnama or authorization of learned Advocate of Management of E C Ltd, as such he could not argue the reference.

Sri Rakesh Kumar has argued that due to sickness, the concerned workman could not come to his duty. He informed about his sickness. He was absent from duty only for a period of two and half months i.e. from 28.9.97 to 3.12.97. The concerned workman was under the clutches of money lenders. He requested for his transfer. His request was considered. Head quarter issued transfer order. But for his absence of two and half months inspite of releasing him for another place, ex parte enquiry was conducted. He was never given opportunity to participate in the enquiry though he was present in the colliery.

It is admitted fact that delinquent workman Sri Atowari Sah was Under Ground Loader of Parasea Colliery of M/s. E C Ltd on permanent basis. The absence of workman has been admitted by the E.C Ltd, though the management has not disclosed the period of absence of delinquent workman. Delinquent workman has stated in his written statement that he was absent from 28.9.97 to 3.12.97, less than a period of two and half months. The workman has stated in his affidavit that he had taken loan from the money lenders. Due to his continuous sickness he did not pay the installments of the money lenders . Money lenders were threatening him with dire consequences. So he applied for his transfer from Parasea colliery to Bahula colliery. The Agent of Parasea Colliery accorded his consent for his release for Bahula Colliery. His request was accepted by the Head Quarter of E C Ltd, but he was not released. The management of Parasea colliery issued him charge sheet on 4.12.97 for his absence from 28.7.97 to 3.12.97. He replied to the charge sheet, but the management did not permit him to join duty and conducted ex-parte enquiry and dismissed him from service. He was not informed about the date of enquiry and about the Enquiry Officer. Therefore, he could not attend the enquiry and enquiry proceeding was conducted ex-parte. The witness of the workman has not been cross-examined. The management has not filed any oral evidence in the rebuttal. There is no reason to disbelieve this

affidavit. Workman has filed copy of charge sheet issued to him, his reply to the charge sheet, copy of dismissal order dated 01.12.98, copy of postal receipt, Photostat copy of sickness certificate of Dr. Govind Prasad and proforma of his transfer.

The management has filed Photostat copy of charge sheet, Photostat copy of postal receipt, copy of register of Leave and Wages Account. Management has not taken care to file copy of enquiry proceeding, enquiry report, show-cause notices, copy of statement of witnesses, finding of Enquiry Officer etc. Since enquiry has been conducted by the Officer of E C Ltd, those documents ought to have been in possession of management of E C Ltd. It is presumed that management ought to have filed those relevant and important documents on the file of reference. If documents are in possession of any party, but he withhold himself from submitting those documents in the tribunal, then tribunal will draw adverse presumption under Section 114(G) of the Indian Evidence Act. From the year 2000 to 2015 even the Management has not filed the copy of enquiry proceedings, copy of statements of witness, copy of enquiry report and show-cause notice then the tribunal has no other option, but to draw adverse presumption against the management of E C Ltd, that there was no enquiry at all or if there was any ex parte enquiry, it was unfair and biased. Otherwise, if domestic enquiry would have been fair and bonafide, the management of EC Ltd. necessarily would have file those documents before the tribunal

On perusal of written statement of management of Parasea colliery under E.C.Ltd it appears that for same absence of the same workman two enquiries were conducted. In para-7 of written statement it has been stated that by Office Order No. POCP/P & IR/97/196 dated 17.3.97 one Enquiry Officer Shri J. K. Khamri, Manager was appointed Enquiry Officer who held ex-parte enquiry and submitted his enquiry report on 26.5.97. In para-8 of the Written Statement it has been stated that thereafter another Enquiry Officer was appointed under letter No. POCP/P & IR/ENQ/97/1126 dated 21.9.97. He conducted enquiry on 4.8.97 and submitted his report. There is no reason why two enquiries were conducted against the same workman. If the first enquiry was not in accordance with law, then it should be quashed with reasoned order. Then only another enquiry can be instituted. It is apparent from the record that report of any enquiry proceeding has not been submitted on the file of reference. Two enquiry proceedings in respect of the same workman for alleged absence is not in accordance with the principles of law.

The Hon'ble Madhya Pradesh High Court in Naveet Kumar Singh VS State of Madhya Pradesh, 2014, LAB-I-C page 230 to 233 has held that inference can be made by court if there is violation of principle of natural justice resulting into serious prejudice to delinquent or if findings

are perverse and based on no legal evidence. In the light of view expressed by Hon'ble M P High Court, if there is no compliance of principles of natural justice, the court can draw inference.

The delinquent workman has admitted that he was absent from duty on and from 28.9.97 to 3.12.97 due to his sickness. Though he has filed Photostat copy of his sickness certificate, but due to absence on enquiry proceedings and enquiry report on record it is not clear that whether the Enquiry Officer has considered this medical certificate or not. Though even if it is presumed that this certificates are not genuine then in that case, absence of delinquent workman for approximate two and half months will be unauthorized absence. Then question arises for consideration is that where for absence of two and half months whether punishment of dismissal is justified ?

The Hon'ble Supreme Court in Raghbir Singh VS General Manager, Haryana Roadways, Hissar reported in 2014, LAB – I-C page 4266 has held that termination of service on the ground of unauthorized absence, no evidence was produced to justify misconduct of unauthorized absence, no opportunity to show- cause against proposed punishment given. The Hon'ble Supreme Court has held that the termination order was unjustified.

The Hon'ble Supreme Court in Chhel Singh Vs. M.G.B Gramin Bank, Pali reported in 2015, LAB-I-C, page 67 has held that absence from duty without prior permission – no allegation that such unauthorized absence from duty was willful and deliberate – medical reports submitted by appellant not shown to be forged. The Hon'ble Supreme Court, quashed the termination order with direction to reinstate.

In the light of view expressed by the Hon'ble Supreme Court mere absence of two and half months unauthorized absence, the punishment of termination is unjustified. No second show-cause notice has been issued to workman before passing order of dismissal dated 1.12.98. There is absolute absence of compliance of natural justice. There is no enquiry report and enquiry proceeding on the file. Without holding any enquiry no workman can be dismissed from service.

It has been observed several times clearly by different Hon'ble High Courts and Hon'ble Supreme Court that before imposing a punishment of dismissal it is necessary for the disciplinary authority to consider the socio-economic backgrounds, length of service, past record and other surrounding and compelling circumstances to commit misconduct. These are the relevant factors which must be kept in mind by the authority at the time of imposing punishment, which has not been done by the authority in this case Memorandum

of Standing Order lays down where various minor punishments are prescribed to be awarded according to the gravity of the misconduct. Keeping in view, the gravity of alleged misconduct under compelling circumstances the maximum punishment of dismissal awarded to the delinquent workman on the basis of so-called ex parte proceeding is unjustified. Unauthorised absence of few months without any malafide intention, the punishment of dismissal to delinquent workman is not just and proper, rather; it is too harsh, the punishment is totally disproportionate to alleged misconduct.

The workman has stated in para 9 of his written statement that he has no other source of income for maintaining his livelihood. In para 12 of his affidavit he has stated that he is out of employment, he has no source of income for his livelihood. This fact and evidence have not been rebutted by the management of E C Ltd. There is no reason to disbelieve this evidence. After dismissal if delinquent workman who has been wrongly dismissed, has no source of income for his livelihood, he should be awarded full back wages.

Hon'ble Supreme Court in Raghbir Singh vs. General Manager, Haryana Road Ways reported in 2014 LAB-I-C page 4266 has held that under the Industrial Dispute Act if there is delay in raising industrial dispute by the workman then workman would be entitled to back wages only from date of raising dispute till reinstatement. The workman has been dismissed by order dated 1.12.98. It is not clear from materials on record that on which date the order of dismissal was served on delinquent. But industrial dispute has been referred on 13.7.2000. It indicates that workman raised the industrial dispute without any delay. Therefore he is entitled to get full back wages from the date of his dismissal.

Considering the whole facts and circumstances of the reference, I come to the conclusion that the action of the management of M/s. E.C.Ltd. in dismissing Shri Atowari Sah, Under Ground Loader, without holding any enquiry is illegal and unjustified. I set aside the order of dismissal of Shri Atowari Sah. The management of E C Ltd is directed to reinstate Shri Atowari Sah with continuity of service. I think it proper that the delinquent workman be imposed a punishment of stoppage of two increments without any cumulative effect. It is further directed that the concerned workman will get full back wages from the date of dismissal order.

#### ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for

information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2300.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम च्यालेय, आसनसोल के पंचाट (संदर्भ संख्या 51/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/276/2005-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2300.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/276/2005-IR (C-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

#### PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

#### REFERENCE NO. 51 OF 2006

#### PARTIES:

The management of Amritnagar Colliery  
of M/s. ECL

VS.

Sri Pradip Bouri

#### REPRESENTATIVES:

For the management : Sri P. K. Das, Ld. Adv.  
(ECL)

For the union (Workmen) : Sri H. L. Soni, KMC  
Industry : Coal State : West Bengal

Dated : 09.11.2015

**AWARD**

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/276/2005-IR(CM-II) dated 17.08.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

**SCHEDULE**

“Whether the action of the management of Amritnagar Colliery under Kunustoria Area of M/s. ECL in dismissing Shri Padip Bouri, General Mazdoor from service of the company w.e.f. 08.02.2003 is legal and justified ? If not, to what relief is the workman entitled ? ”

Having received the Order No. L-22012/276/2005-IR(CM-II) dated 17.08.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 51 of 2006 was registered on 18.09.2006 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both of the parties are absent.

The case was fixed for hearing ex-parte on 15.06.2010 and then again for appearance of the parties on 02.12.2011 but the union workman never attended the court after 18.11.2009. Registered notices were issued to the parties on 15.12.2011, 22.05.2012 and 28.01.2014 but all in vain. It appears that the workman / union is now not at all interested to proceed with the case further. Hence the case is closed and accordingly a ‘No Dispute Award’ is passed.

**ORDER**

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2301.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 95/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[ सं. एल-22012/144/2006-आईआर (सीएम-II) ]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2301.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of Kalidaspur Project of M/s. ECL, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/144/2006-IR (CM-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT:**

Sri Pramod Kumar Mishra, Presiding Officer

**REFERENCE No. 95 OF 2006****PARTIES:**

The management of Amritnagar Colliery  
of M/s. ECL

Vs.

Sri Sukul Majhi

**REPRESENTATIVES:**

For the management : Sri P. K. Goswami, Ld.  
Adv. (ECL)

For the union (Workman) : Sri Sayantan Mukherjee,  
Ld. Adv.

Industry : Coal

State : West Bengal

Dated : 13.11.2015

**AWARD**

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/144/2006-IR(CM-II) dated 01.11.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

## SCHEDULE

“Whether the action of the management of Kalidaspur Project, Satgram Area of ECL, in dismissing Sri Sukul Majhi from service w.e.f. 05.09.2005 is legal and justified? If not, to what relief is the workman entitled ? ”

Having received the Order **NO. L-22012/144/2006-IR(CM-II)** dated 01.11.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. **95 of 2006** was registered on 11.12.2006 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both of the parties are absent.

On perusal of the case record I find that the case was fixed for argument on 12.12.2012 as the workman did not file his evidence in spite of sufficient opportunities. But neither the workman nor his advocate attended the court after 05.08.2009. Registered letters sent to the workman on 14.10.2012 and 14.10.2014 have come back with the remarks that the workman is not found. Sufficient opportunities have been given to the workman after 12.12.2012 for taking part in the dispute but no result.

Under the circumstances explained above I have no option left but to close the case. As such the case is closed and accordingly a ‘No Dispute Award’ is passed.

## ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2302.—औद्योगिक विवाद अधिनियम, 1947** (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 51/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/50/2007-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2302.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Satgram Area of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/50/2007-IR (C-II)]

RAJENDER SINGH, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

#### PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

#### REFERENCE NO. 51 OF 2007

#### PARTIES:

The management of Satgram Workshop  
of M/s. ECL

vs.

Sri Kartick Ch. Gorai

#### REPRESENTATIVES:

For the management : Sri P. K. Goswami, Ld.  
Adv. (ECL)

For the union (Workmen) : Sri S. Ayantan Mukherjee,  
Ld. Advocate

**Industry :** Coal

**State :** West Bengal

Dated : 17.11.2015

## AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/50/2007-IR(CM-II) dated 17.07.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

## SCHEDULE

“Whether the action of the management of ECL in not allowing idle wages to Sri Kartick Ch. Gorai w.e.f. 27.10.1998 to 20.12.1998 is legal and justified? If not, to what relief is the workman entitled? ”

Having received the Order No. L-22012/50/2007-IR(CM-II) dated 17.07.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 51 of 2007 was registered on 26.07.2007 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both of the parties are absent.

Mr. P.K. Goswami, Learned Advocate for the management though filed written statement on behalf of the management, has not filed his authorization. On the other hand Sri Sayantan Mukherjee, Learned Advocate appeared for the workman but he has neither filed written statement nor authorization.

Registered notices were issued to the parties on 01.08.2007, 03.08.2009, 19.12.2011, 21.05.2012 and 23.09.2014 but the workman/union never appeared before the court. After service of the 4th notice on 23.09.2014, 6 dates were granted but all in vain. It seems that the workman/union is now not at all interested to proceed with the case further. As such the case is closed and accordingly a 'No Dispute Award' is passed.

### ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2303.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 84/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/39/1997-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2303.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 84/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Chirimiri Colliery of SECL, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/39/1997-IR (C-II)]

RAJENDER SINGH, Section Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

No. CGIT/LC/R/84/98

Shri Panchratn Singh,  
S/o Shri Maharaj Singh,  
Ex.Cat-I Mazdoor,  
Tina Dafai,  
Chhota Bazaar, Chirimiri,  
Distt. Surguja (MP) ...Workman

...Workman

### Versus

Sub Area Manager,  
Chirimiri Colliery, SECL,  
Post Chirimiri,  
Distt. Surguja (MP) ...Management

...Management

### AWARD

Passed on this 17th day of November, 2015

1. As per letter dated 24-4-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/39/97-IR(C-II). The dispute under reference relates to:

"Whether the action of the Sub Area Manager, Chirimiri Colliery of SECL, Chirimiri area in dismissing Shri Panchratn Singh, s/o Shri Manraj Singh, Cat-I Mazdoor, Chirimiri Colliery w.e.f. 27-7-96 from company services is legal and justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through Secretary of the Union. The case of 1st party is that he was working as Mazdoor Category I in 2nd party mine. His services were illegally terminated conducting illegal enquiry. He was not served with any chargesheet. He had not received intimation of enquiry dated 19-1-95, 8-2-95, 29-3-95 & 26-7-95. He received information about enquiry from clerk Harprasad Garg on 4-12-95. In Enquiry

Proceedings, he had submitted certificate about his treatment denying the charges of unauthorized absence. He had produced documents asked by Enquiry Officer. Charges alleged against him were baseless. Charges were not proved against him. on such ground, workman prays for his reinstatement with consequential benefits.

3. Management filed Written Statement at Page 12/1 to 12/7 opposing claim of the workman. Case of management is that 1st party workman was habitual absentee. Several warnings were issued to him in the past dated 17-8-92, 29-10-92, 12-2-94, 11-8-92. During 1994, workman was present only for 3 days. Chargesheet was issued to workman. After reply submitted by workman, Enquiry Officer was appointed. Enquiry was conducted on various dates. Enquiry Officer submitted report that charges alleged against workman are proved. Disciplinary Authority agreed with the findings of Enquiry Officer and imposed punishment of removal from service. Enquiry was properly conducted. Workman is not entitled to any relief.

4. As per order dated 20-10-14, enquiry conducted against workman is found proper and legal. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of removal imposed against workman is proper and legal?	In Affirmative
(ii) If so, what relief the workman is entitled to?"	Workman is not entitled to any relief.

### REASONS

5. Point No.1- Enquiry conducted against workman is found proper and legal. Record of enquiry is produced at Exhibit M-1 to M-20. The statement of management's representative was recorded by the Enquiry Officer. Management's representative has stated that workman was present for one day in January 1994. As per bonus register, workman was present 15 days in 1991, 3 days in 1992, 35 days in 1993, 4 days in 1994. The statement of workman was also recorded. Workman has stated that as he was suffering from illness, he was absent from duty. Medical Certificates are not produced on record by workman. He claims that he received treatment in colliery hospital. Medical Officer in colliery was expected to inform

about his medical treatment to the management. Workman has not called the Medical Officer who issued Medical Certificate etc. the evidence in Enquiry Proceedings is sufficient to prove the charges against workman. Therefore I record my finding in Point No.1 in Affirmative.

6. Point No.2- The misconduct alleged against workman are proved from evidence in Enquiry Proceedings. Workman was present on duty only for 4 days in 1994. Even during 1991, 92, 93, his attendance was very poor. Therefore punishment of removal from service cannot be said excessive. No interference in the punishment would be justified. for above reasons, I record my finding in Point No.2.

7. In the result, award is passed as under:-

(1) The action of the Sub Area Manager, Chirimiri Colliery of SECL, Chirimiri area in dismissing Shri Pancharatan Singh S/o Shri Manraj Singh, Cat-I Mazdoor, Chirimiri Colliery w.e.f. 27-7-96 from company services is legal and proper.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2304.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 02/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/228/1991-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2304.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/1992) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/228/1991-IR (C-II)]

RAJENDER SINGH, Section Officer

## ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

## PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

**REFERENCE NO. 02 OF 1992**

## PARTIES:

# The Management of Parasea O.C.P., E.C.L., Vs.

## Sri Babulal Gope

## **REPRESENTATIVES:**

For the management : Sri P. K. Das, Ld. Adv.  
(ECL)

For the union (Workman) : S. K. Ganguly, Ld.  
Advocate

Dated : 24.11.2015

## AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/228/91-IR(C-II) dated 09.01.1992 has been pleased to refer the following dispute for adjudication by this Tribunal.

## **SCHEDULE**

“Whether the action of the management of Parasea O.C.P. of M/S ECL, P.O Parasea, Dist. Burdwan, in dismissing Sri Babul Gope, Security Guard w.e.f. 12.07.1988 is justified? If not, to what relief is the concerned workman entitled to?”

Having received the Order No. L-22012/228/91-IR(C-II) dated 09.01.1992 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 02 of 1992 was registered on 13.01.1992 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. The workman appeared through his representatives.

The Learned Predecessor of this Tribunal passed an award dated 02.04.1998. Learned Predecessor set-a-side the Dismissal Order of delinquent workman and awarded

stopping five annual increments with cumulative / future effect with a direction to management to reinstate the workman in the service without back wages.

Aggrieved by this order the workman Sri Babulal Gope filed writ petition No. 1658(W) of 2005 before the Hon'ble Calcutta High Court. The Hon'ble Calcutta High Court has observed as follows :

“It appears that both the parties namely employee and employer are dissatisfied with the Award, in question. Therefore, the Award is set aside. The matter shall be decided by the Tribunal de novo within a period of six months from the date of communication of this Order.

This writ petition is, thus, disposed of.

This order also disposes of the writ petition being W.P.1658 (W) of 2005.”

At the very outset, it is necessary to mention, that Tribunal has requested to the learned advocate of workman Sri Babulal Gope to file complete certified copy of judgment of Hon'ble Calcutta High Court. But in spite of repeated request the learned advocate has failed to file the complete certified copy of Hon'ble Court's judgment as yet. Only Photostat copy of operative portion of Hon'ble Court's judgment is on record. Both parties are agreed about the observation of Hon'ble High Court. Hon'ble Calcutta High Court has mandated to decide the reference within a period of six months from the date of the communication of the order. Therefore, in compliance of order of Hon'ble High Court it is mandatory to decide reference on priority basis. Since the Tribunal was vacant for a long time, as such reference could not be decided earlier.

Workman Sri Babulal Gope has stated in his written statement that he was working as Security Guard in Parasea O.C.P., Kunustoria Area. He was on duty with co-worker Sri Lakhan Majhi in shift duty at night from 4.00 P M to 12.00 night on 24.8.87. He was surprised when he came to know that he and his co-worker Sri Lakhan Majhi were suspended after issuing charge-sheet against them on 28.8.87. Workman furnished a reply within the stipulated time. But workman was dismissed from service by General Manager, Kunustoria Area on 09.07.1988 without any reason. Workman repeatedly requested to supply the copy of enquiry report and all papers, but it was never supplied to him. There was no allegation against him while performing duty as Security Guard. Sri Lakhan Majhi, co-worker who was on duty with him was punished by only curtailment of two increments of his basic pay for the same offence for which the workman Sri Babulal Gope was dismissed. Workman is jobless person, he has been denied justice from management of E.C.L. He has prayed for setting aside the Order of Dismissal and Reinstate him with full back wages and with other incidental benefits.

On the other hand, the management of E.C.L. has filed written statement in which they have stated that Sri Babul Gope had been working as Armed Security Guard in Parasea O.C.P. of E.C.L. and as such entrusted with the solemn duty of guarding the company's property in P.O.C.P. During his duty hours from 04:00 P.M to 12:00 P.M on 24.08.1987 while Sri Babul Gope was on duty, one of the two 12 Volt 25 Plates lead acid storage batteries fitted with Poplain 300 CK shovel stationed at coal face was found stolen. As such Sri Babul Gope was scheduled to take care of the machineries at or near the coal face, Charge sheet dated 28/29.08.1987 was issued to him by the Project Officer, Parasea O.C.P. of E.C.L. as delegated authority of disciplinary authority. Workman on receipt of it has given his reply denying the said charges of dishonesty in connection with Co.'s property and negligence on duty. Domestic enquiry was held against the workman against the said charges by appointing Mr. S.Sen, Sr. P.O. as Enquiry Officer in which the workman had fully participated in the said enquiry. The Enquiry Officer has found him guilty. The said enquiry was conducted in full compliance of natural justice. Enquiry as such is fare and proper. The charges have been grave and subversive to discipline, the G.M., Kunustoria Area has issued the Letter of Dismissal of Sri Babul Gope dated 09/12.07.1988. The charge sheet as mentioned above was issued following a report given by Sri T.Mahanty, Sr.Security Inspector to Project Officer and F.I.R. was also lodged with Police for the aforesaid incident. Sri Lakan Majhi, co-workman on duty was not an Armed Guard like Sri Babul Gope and as such even though he was on duty on the said date and time. Sri Lakan Majhi cannot have the primary responsibility like that of Babul Gope and he was naturally given lesser punishment. Rest allegations have been denied by the management.

Workman Sri Babul Gope has filed Copy of charge sheet, Copy of notice of enquiry, Copy of his letter addressed to management, Copy of enquiry report and Findings of Enquiry Officer, Notice of disciplinary authority and Dismissal Order. Sri Babul Gope has filed oral evidence on affidavit dated 21st July, 2009. He has been cross-examined by the Advocate of the management. Management of E.C.L. has not filed oral evidence.

Sri P.K. Das, Learned Advocate appearing on behalf of management of E.C.L. has argued that the workman has been reinstated by an award dated 02.04.1998, but even then he did not join the service and he was not willing to be reinstated.

On the other hand, Sri S. Ganguly, Learned Advocate appearing on behalf of workman has argued that the workman was to retire after 4 (Four) months from the date of Award, therefore delinquent workman did not join the service in spite of award dated 02.04.1998. He has cited a decision reported in **NOVARTIS INDIA LTD. Vs.**

**STATE OF WEST BENGAL & ORS. [2008] INSC 2061  
S.C. (2 DECEMBER 2008).**

I have heard the argument of learned Advocates of both sides and perused the record.

Hearing on preliminary point regarding the question of validity of the enquiry was disposed of vide order dated 09.07.1997. No impropriety or invalidity in the enquiry has been found.

The delinquent was charge sheeted by the management vide charge sheet no. P.O.C.P/P&IR/CS/87/7697 dated 28.08.1987. The delinquent workman was charge sheeted on two counts: He was charge sheeted Under Sections 17(1)(a) and 17(1)(f) of the model standing order for; (1) Dishonesty and in connection with Co.'s property, (2) Negligence of duty.

Admittedly the Security Guard named Sri Lilmuni relieved the concerned workman at the end of the second shift duty. The workman has admitted this also in his reply to the charge sheet. This Security Guard named Sri Lilmuni has been examined as management's witness No. 2. His statement is that after relieving the charge-sheeted workman at the end of the second shift duty, he checked machineries at the site and found the battery to have been stolen away. It is also his statement that he saw Fitu Ram coming there during his patrol duty and that he drew the attention of Fitu Ram to the incident. Lilmuni further stated that Sri Fitu Ram also personally checked and saw the battery missing. This, Sri Fitu Ram had been acting as Security Havildar during the relevant period and he has been examined as management's witness No. 1. His statement is that at about 01:00 P.M. in the night (during third shift duty hours) while he had been going round on patrol duty at Parasea Open Cast Project, he had the occasion to personally check and found that the battery was stolen. He added that early in the next morning he informed the matter to the Senior Security Inspector. It may be recalled that admittedly the Senior Security Inspector presented a written report about the theft to the Project Officer. The charge-sheeted workman attempted to introduce a plea through some of his witnesses that the theft was detected not by Sri Lilmuni and Sri Fitu Ram, but by an Electrician who came to start a generator when failure of power supply took place. Obviously, the purpose behind this attempt was to discredit the management's witnesses and to disprove the allegation against him. However, the statements of the management's witnesses appear to be quite natural.

The consequential conclusion is that theft of the battery was detected soon after the second shift duty of the concerned workman was over. Timing of the theft was apparently shortly before its detection and so timing of the theft was certainly during the second shift duty period of the concerned workman. His watch and guard duty was

at and near the coal face, where the battery was placed. The theft could not have been possible, without lapses in duty on the part of this workman and the other Security Guard who was his companion in duty. The materials on record clearly establish the charge of negligence on duty.

Now coming to the other charge of connivance with the miscreants who committed the theft, it is found that identity of the miscreants is not known. For this reason alone, this workman cannot be linked on record with the specific thieves. Apart from that, there is absolutely no material from the side of the management, which can even remotely suggest connivance by the workman with the unknown thieves. The second charge of dishonesty in conniving with the thieves does not accordingly stand established.

It is apparent from the record that the value of the stolen battery has not been indicated by the E.C.L. authority. Records do not reflect earlier history of negligence in duty on the part of delinquent workman. Punishment of dismissal from service is quite harsh and rather, disproportionate to the alleged guilty of the delinquent workman. Therefore, dismissal of delinquent workman from service is not proper.

Relief of reinstatement is on the same footing as relief of restitution of service. Re-instatement means restoration of a dismissed or discharged workman to his original post. But the delinquent workman Sri Babulal Gope has dis-entitled himself from claiming re-instatement. The question whether in a case where re-instatement is found to be a proper relief, what should be the guiding consideration from awarding back wages, crops every time when the workman questions the validity and legality of termination of his service.

The Hon'ble Supreme Court in Nagar Mahapalika v/s State of Uttar Pradesh reported in A.I.R 2006, page 2013 has held that:

Only because the Labour Court may grant a relief on reinstatement with full backwages. The same should not be granted as a matter of routine.

Hon'ble Supreme Court in Uttarakhand Forest Development Corporation v/s M.C. Joshi reported in 2007 A.I.R. S.C., page 7305 has held that:

It is now settled that the relief of re-instatement with full back wages could not be granted automatically, only because it would be lawful to do so. For the said purpose several factors are required to be taken into consideration.

Therefore, in view of law propounded by Hon'ble Apex Court the relief of re-instatement with back wages cannot be granted automatically, only because it would be lawful to do so. For the said purpose several factors are required to be taken into consideration, namely; Nature of

employment whether perennial or short duration, Period of service rendered by employee before termination, Attempt of employee concerned to seek alternative employment during the period of dismissal, Principle of equity i.e. interest of industry as well as of workman, Financial position of employer/industry.

Hon'ble Supreme Court has held in Jagbir Singh v/s Haryana State Agriculture Marketing Board and another reported in A.I.R 2009, page 3004 has held:

“ It is true that earlier view of this Court articulated in many decisions reflected the legal position that, if the termination of an employee was found to be illegal, the relief of reinstatement would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back-wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee, is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.”

Workman has stated in his affidavit dated 21.07.2009 in para-8, 10 and 11 that from 12.07.1988 he was out of employment. He has no source of income, none of his family members are in employment. While he was in service, some landed property was donated to him by his father. He received donation from his relatives, friends and colleagues. He maintains his livelihood on the basis of donation received from his friends, relatives and colleagues and some landed property donated by his father. There is no other means of his livelihood. The workman has stated in para-13 of his affidavit “It is made clear that the Ld. Advocate and the Trade Union Leaders made me callous not to involve in any type of job whatsoever and continue to cause presence before the Learned Tribunal in all the dates without fail. They assured me that the adjudication may be completed within 1995. They also expressed their high hope that he will be reinstated in service with full back wages and if I will not engage in any type of work or job for earning . Hence I did never try to collect any type of job nor I engage myself with any business for earning money”

The relief of back-wages may be denied where that would place impossible burden on the employer. The extent of income, if any, earned by a workman, elsewhere during the period of his enforced unemployment and the nature of efforts, on his part, to secure alternative gainful employment, will be relevant factors to be taken into account in denying or scaling down of quantum of back-wages. Likewise, if the workman is guilty of misconduct or lapses on his part it is within the discretion of the Tribunal,

not to award back-wages for the period during which he may have remained out of employment.

At the cast of repetition, it may be stated that delinquent workman Sri Babul Gope has dis-entitled himself from claiming re-instatement on the ground that only few months were left to his superannuation. His evidence on affidavit clearly indicates that he is interested only for 'back wages' without performing any job. He never tried to seek alternative employment during solemn period of dismissal. It is hard to believe that any workman and his family members can survive only on 'donations' from relatives and friends for so long period. He has not come to Tribunal with clean hands. 'Back-wages' means to compensate the delinquent workman, if he is not found guilty or punishment is proportionately too harsh to his guilt. 'Back-wages' certainly, does not and can not mean as 'bonus' for sitting idle. It is relevant to mention, that delinquent workman has been found guilty which has been upheld by this Tribunal only because the punishment of dismissal of delinquent workman is too harsh and rather disproportionate, to his guilt. I think the dismissal should be set-a-side. But he is guilty for negligence. In domestic enquiry, he is not found to be innocent.

Keeping in view all facts, evidence and circumstances of the present reference, awarding Back-wages, will not be fair and just. It would be proper to award compensation in lieu of Back-wages.

The learned Advocate of workman has relied on a decision of **NOVARTIS INDIA LTD VS STATE OF WEST BENGAL & ORS. [2008] INSC 2061 S.C. (2 DECEMBER 2008)**. Where the Hon'ble Supreme Court has upheld the Back-wages awarded by Tribunal. I am in respectful agreement with the view expressed by Hon'ble Apex Court. The facts of the present reference are different from the facts of above referred case.

In view of discussion above, the order of dismissal dated 09/12/07/88 is set-a-side. Since the workman has already reached the age of superannuation, order of reinstatement will not serve the purpose. The management of Parasea O.C.P. of M/s. E.C.Ltd. is directed to pay Rs.5,00,000/- (Rupees Five Lakhs Only) as compensation to the workman Shri Babul Gope, in lieu of Back-wages.

#### ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2305.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 203/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-22012/209/1995-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2305.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 203/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of WCL and their workmen, received by the Central Government on 7-12-2015.

[No. L-22012/209/1995-IR (C-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/203/95

General Secretary, K.K.M.P.(HMS), Post Junnardeo, Distt. Chhindwara (MP)	...Workman/Union
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Versus

Manager, Nandan Mine No.1, WCL, Post Nandan, Distt. Chhindwara	...Management
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#### AWARD

Passed on this 29th day of October 2015

1. As per letter dated 16-24/11/1995 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/209/95-IR(C-II). The dispute under reference relates to:

"Whether the action of the management of Nandan Mine No.1 of WCL, Kanhan Area PO Nandan, Distt. Chhindwara (MP) in dismissing Shri Munnalal S/o

Jahangai, tub loader, T.No. 2647 of Nandan Mine No.1 of WCL, Kanhan Area from service w.e.f 1-2-93 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Union at Page 3/1 to 3/2. Case of Ist party Union is that workman Munnalal was old workman of the industry. Workman fell sick, he was receiving treatment at companies and Government Dispensary at Chhindwara in 1991. Due to sickness, chargesheet was issued to workman on 25-3-92. Workman submitted reply to chargesheet alongwith medical certificates. He was allowed on duty after gap of 7 months. Enquiry Officer issued letter dated 19-9-95 for holding enquiry on 29-9-92 but he failed to hold the enquiry. That workman was present before Enquiry Officer. Enquiry Officer was not present, signature of workman was obtained by concerned clerk on some papers. Enquiry was not held. After gap of 4 months letter of dismissal was issued on 1-2-93 without any sin. That for minor misconduct of sickness and treatment, major punishment of dismissal was not justified. Generally workman was not allowed on duty. Enquiry Officer did not consider medical certificates and death of father of workman. On such ground, Union prays for setting aside order of termination of workman and reinstatement with backwages.

3. 2nd party filed Written Statement at Page 4/1 to 4/7 opposing claim of workman. 2nd party raised preliminary objection that Union filed statement of claim on 5-2-96. Union filed death certificate of workman on 25-12-00. Workman expired on 27-11-99. He not filed application for LRs. Proceeding is not tenable as workman is dead.

4. 2nd party further contends that the workman was habitual absentee. He was remaining absent without intimation or permission. In the past, management has taken lenient view allowing opportunity to the workman for improvement. Workman did not show improvement in his conduct. He was continuously remaining absent without intimation or sanctioned leave. In para 6 of the Written Statement, attendance particulars of workman are shown. In 1989- 100 days, in 1990- 130 days, in 1991- 46.5 days, in 1992- 72 days. The workman was issued chargesheet on 25-3-92 for absence without leave. The particulars of absence are shown in para-7 of the Written Statement. Workman failed to submit reply to the chargesheet. Management decided to conduct enquiry. Shri P.C.Bhatt Under Manager was appointed as Enquiry Officer. Shri H.Rehman OS was appointed as Management Representative. Enquiry was fixed on 24-4-92, 14-7-92, 29-8-92, 28-9-92 issuing memorandum to the workman. Workman was absent in the enquiry. On earlier dates on 28-9-92, workman was present in person. Enquiry Officer explained charges to him. Workman admitted charges

without any kind of compulsion. Despite of it, Enquiry Officer decided to conduct enquiry. Management's witness were directed to lead evidence. After evidence of management was closed, workman was directed to lead evidence. Workman submitted medical certificate issued by Private Doctor. Workman did not examine the documents giving him treatment. Enquiry Officer submitted his report that charges against workman are proved. Considering proved charges of absence of workman for long period, punishment of termination was imposed. Management was justified in taking serious action in case of absenteeism.

5. As per terms and conditions, if employee fell sick, he has to report to Medical Officer of colliery who issued sick certificate. On said certificate, sick leave is to be granted. In the circumstances, it cannot be believed that despite of medical facilities provided by management, workman received treatment from Private Doctor. Workman remained absent without intimation or sanctioned leave. 2nd party has referred to ratio held in various cases and submits that the action of the management is proper and legal.

6. As per order dated 27-7-2015, enquiry conducted against workman is found legal.

7. Considering pleadings on record and orders on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(iii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

#### REASONS

8. As per order dated 22-7-15, enquiry conducted against workman is found legal and proper. Point whether misconduct alleged against workman is proved from evidence in Enquiry Proceedings requires to be decided from evidence in Enquiry Proceedings.

9. Learned counsel for 2nd party Shri A.K.Shashi pointed out my attention to the record of enquiry. Exhibit M-1(3) is chargesheet issued to workman shows the period of absence from 18-11-90 to 30-11-91. The charge against workman was habitual, late attendance, habitual absence without leave or leave without sufficient cause. Exhibit M-1(4), (5) are memo of enquiry issued to workman. Exhibit

M-1(6) is application submitted by workman for adjournment of enquiry. At page 3 of Enquiry Proceedings, Exhibit M-8, workman has admitted charges against him. Statement of workman was recorded in reply at Page 8/13, workman claimed that he was ill, he was receiving treatment at Chhindwara. He had brought certificate of his illness. That he was admitted for treatment but his illness was not cured. Statement of workman further shows that he had not shown certificate of his treatment was his mistake. As workman has admitted charge against him, he had not submitted medical certificate to the management, charges against workman are proved.

10. Learned counsel for workman Shri Praveen Yadav during course of argument emphasized that Enquiry Officer did not consider that workman was suffering from illness and medical certificate. The medical certificate is not proved by any evidence in Enquiry Proceedings.

11. Management raised preliminary objection that reference is not tenable as LRs of deceased workman are not brought on record. LR of deceased workman namely Rajiv Suryavanshi is brought on record, he has also participated in reference filing evidence. Therefore preliminary objection could not be accepted. Considering evidence in Enquiry, I record my finding in Point No.1 in Affirmative.

12. **Point No.2**- In view of my finding in Point No.1 misconduct alleged against workman of unauthorized absence is proved from evidence in Enquiry Proceedings, the question remains whether punishment of dismissal against workman is proper and legal. Learned counsel for workman Shri Praveen Yadav submits that evidence in Enquiry shows that workman was suffering from illness and medical certificate was produced by him, punishment of dismissal is excessive. On the point, the award passed in R/97/01 is submitted for my perusal. In said case, my predecessor held the attendance particulars of workman were not proved by valid evidence. Workman in his evidence had contented that he never absented unauthorisely. In present case, workman admitted his absence, he admitted the charges against him therefore the award is R/97/01 cannot be followed in present case. Workman was unauthorisely absent for long period, he had not given intimation about his illness to the management, medical certificate were also not submitted to the management. Therefore I do not find reason to interfere with the punishment of dismissal imposed by the management. For above reasons, I record my finding in Point No.2 in Affirmative.

13. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2306.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकारण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 23/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/95/2009-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2306.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2010) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-12-2015.

[No. L-20012/95/2009-IR (C-1)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1) DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of  
I.D. Act, 1947

#### Ref. No. 23 of 2010

Employers in relation to the management of P.B. Area of  
M/s. BCCL

And

Their workman

**Present :-** Sri R. K. Saran, Presiding Officer

**Appearance:-**

For the Employers:- Sri N.M.Kumar, Advocate

For the workman:- Sri R.R.Ram, Rep.

**State:-** Jharkhand

**Industry :-** Coal

**Dated:-23-10-2015**

#### AWARD

By order No. L-20012/95/2009-IR (C-1) dated 10/02/2010, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub -Section (1) and Sub-Section (2A) of Section 10 of the

Industrial Disputes Act, 1947, referred the following dispute for adjudication of this Tribunal:

### SCHEDULE

“Whether the action of the management of Gopalichak Colliery under P.B.Area of M/S BCCL in dismissing Sri Prakash Kumar Rajwar M/Loader from the service of the company w.e.f. 28.09.2002 vide order dated 27/30.09.2002 is justified and legal? To what relief is the concerned workman entitled ?”

2. The case is received from the Ministry of Labour on 9/02/2000. After receipt of the reference, both parties are noticed. The workman files their written statement on 15.04.2000. And the management files their written statement on 12.09.2000. Two witnesses examined on behalf of the workman and Ext W-1 to W-5 are also marked. But No witness examined on behalf of the management.

3. This is a case of dismissal of the workman. The dismissal of the workman was after due en'quiry. The workman raised the dispute and finally the case came to this Tribunal. During the pendency of the reference, the workman died.

4. If a deceased workman died during trial, his case weakened like any thing. However, his wife has been substituted and prays for some relief.

5. Actually no relief is there for the wife of the workman. Since there is a death and the workman was an ex-employee of the management. Management to "pay Rs. 40,000 (Forty thousand only) towards final relief to Smt Sona Devi w/o deceased workman and nothing else.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2307.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, धनबाद के पंचाट (संदर्भ संख्या 09/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12. 2015 को प्राप्त हुआ था।

[सं. एल-20012/98/2013-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2307.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.

2, Dhanbad (Ref. No. 09/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-20012/98/2013-IR (C-I)]

M. K. SINGH, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) DHANBAD

**Present :-** Sri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act, 1947.

#### REFERENCE NO 09 OF 2014.

**PARTIES:** The Secretary,

Dhanbad Colliery Karmachari Sangh,  
Police Line, Dhanbad.

**Vs.**

The Manager  
M/s. Bharat Coking Coal Ltd,  
Bhagaband Colliery, P.B.Area.  
Dhanbad.

Order No. L-20012/98/2013-IR (CM-I)  
dt.17.02.2014.

#### APPEARANCES:

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 19th Oct., 2015

### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/98/2013-IR (CM-I) dt.17.02.2014.

### SCHEDULE

“Whether the action of the Management is proper, fair and justifiable not to protect pay on conversion to these five workers, namely (i) Sh. Ambika Ram, (ii) Sh. Banshidhar Prasad, (iii) Sh. Ram Prakash Rauth, (iv) Sh. Mahendra Thakur,

and (v) Sh. Uchit Ram, on time rated, because on conversion, Management started to pay less basic wages, which these workers were drawing before conversion. To what relief the workmen concerned are entitled to?"

2. None is present on behalf of the workman. So also, none is present for the Management .The case is lingering since 26.05.2014.Hence a 'No Dispute Award' is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2308.**—औद्योगिक विवाद अधिनियम, 1947

(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, धनबाद के पंचाट (संदर्भ संख्या 155/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/343/1998-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2308.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 155/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-20012/343/1998-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) DHANBAD

#### PRESENT

Shri R. K. Saran, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act,1947.

#### REFERENCE NO. 155 OF 1999

**PARTIES :** The Joint General Secretary,  
Rastriya Colliery Mazdoor Sangh  
Rajendra Path, Dhanbad

**Vs.**

The General Manager,  
Katrás Project of M/s. BCCL  
P.O. Malkera, Distt: Dhanbad.

Order No. **L-20012/343/98-IR(C-I) dt.22.02.99/4.3.99**

#### APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : Mr. U. N. Lal, Ld.  
Advocate

**State: Jharkhand      Industry: Coal**

Dated, Dhanbad, the 9th October, 2015

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. **L-20012/343/98-IR(C-I) dt.22.02.99/4.3.99.**

#### SCHEDULE

**Whether the action of the Management of East  
Katrás Colliery of M/s. BCCL in dismissing Sri Mansa  
Manjhi, Line Mistry from the service of the company w.e.f.  
2.3.92 is justified? If not, what relief the concerned  
workman is entitled to?"**

2. None representation on behalf of the sponsoring Union, though waiting for a long time but Mr. U. N. Lal, Ld. Advocate turned up on the date representing Management side .The case was dragged on to evidence of the workman on merits, on the issue of dismissal of the workman from service in colliery of East Katras Colliery of M/s. BCCL.

On going through the case record at a glance, available in the case record, it appears that the case has been stagnated on the evidence of the workman on 8.5.2014 since then ample opportunities, i.e. dt. 8.5.14, 3.7.2014, 21.08.2014, 25.09.14, 10.11.14, 23.12.2014, 6.2.15 and so on... were provided to the Sponsoring Union to come out for final argument on merits, but due to one account or other pretext, it could not be completed even presence of the Management Representative all along since its inception.

It shows the very purpose of the case has been either been settled or no longer in exist. Under the circumstances, the Tribunal has no option but to dispose of the case as No Dispute Award between the parties, and accordingly 'an Award of No Dispute' is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2309.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एयर इंडिया एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में, निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्सी के पंचाट (संदर्भ संख्या 31/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7. 12.2015 को प्राप्त हुआ था।

[सं. एल-11012/12/2006-आईआर (सी-I)]  
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2309.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai (Ref. No. 31/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Air India & Others and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-11012/12/2006-IR (C-I)]  
M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Wednesday, the 28th October, 2015

Present : K. P. PRASANNA KUMARI, Presiding  
Officer

#### Industrial Dispute No. 31/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Air India, Chennai Airport and Another and their workman)

#### BETWEEN:

The Secretary : 1st Party/Petitioner Union  
Chennai Airport Contract  
Workers Union  
No. 13, 1st State, Balaji  
Nagar, Anakaputhur  
Chennai-600070

AND

1. The Senior Manager : 2nd Party/1st Respondent  
Air India, Chennai Airport  
Chennai-600006
2. M/s. Kamatchi Amman : 2nd Party/2nd Respondent  
Electricals  
C/o Air India, Chennai Airport  
Chennai-600027

#### Appearance:

For the 1st Party/ : M/s. Balan Haridas, Advocates  
Petitioner Union

For the 2nd Party/ : M/s. NGR Prasad, Advocates  
1st & 2nd Management

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-11012/12/2006-IR (C.I) dated 26.03.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether services of seven Contract Workers (As per annexure) working under M/s. Kamatchi Amman Electricals at Chennai Airport can be regularized by the Management of Air India? To what relief the concerned workers are entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 31/2014 and issued notices to both sides. Both sides have entered appearance. The petitioner has filed Claim Statement and the First Respondent has filed counter Statement. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner are as below:

The petitioner is a Union registered under the Trade Unions Act. The six employees mentioned in the annexure to the petition are members of the Petitioner Union. Though the dispute was raised concerning 7 employees, one of the employees by name Alagarsamy has left the employment owing to personal reasons. So the dispute is pursued only in respect of the rest of the employees. The 6 workmen who are concerned in the dispute are working either as Electrician or Electrician Helpers. They are termed

to be contract employees working through the Second Respondent, the Contractor for the First Respondent Airlines. Even though the workmen are termed to be contract labour, actually they are directly working for the First Respondent. The workmen concerned in the dispute do the day to day electrical maintenance work, air-condition electrical operations and look after generator operation and water motor operation in the Office complex of the First Respondent in Chennai Airport. They also do such works at Cargo Office of Air India located at Old Airport, Meenambakkam, Chennai. They do electrical maintenance work in the office of the Air India located at Chennai International Airport also. The work done by the workmen concerned in the dispute is continuous and perennial in nature. They work in four shifts. They were working for a period ranging between 18-23 years without any break. They are termed contract labour for denying the benefits attached to a permanent worker. The contract is only a smokescreen to deny the benefit of regular workman to these workmen. The Second Contractor is merely a name lender. At no point of time the proprietor of Second Respondent have come and supervised the work of the workmen concerned in the dispute. These workmen used to report to the officials of Air India and used to work under their supervision. From 2011 onwards one M/s. Delite Systems Engineering India (I) Pvt. Ltd. is termed to be the Contractor. Without electricians and electrical helpers the electrical operations in the entire Air India Unit complex would come to a grinding halt. As their presence is required for emergency calls they are being retained throughout day and night. The workmen concerned in this dispute have worked continuously for more than 480 days within a period of 24 calendar months with the First Respondent and they are to be deemed permanent employees under Section-3 of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. An order may be passed holding that the six workmen concerned in the dispute are permanent employees of the First Respondent and directing the First Respondent to regularize the services of these workmen with all consequential benefits such as continuity of service, etc.

4. The First Respondent has filed Counter Statement contending as below:

The work of electrical maintenance in the Air India Ltd. premises located at Chennai Airport were given on contract after following the tender procedure. The scope of the work included DG Set Operation and maintenance of other electrical installations. The contract also included water pumping and attending to electrical complaints. The 7 workmen represented by the Petitioner Union were engaged by the Second Respondent. They are not employees of the First Respondent. The contract for electrical maintenance is normally awarded for a period of one year. The Second Respondent was obtaining the

contract from 1995 onwards and continued up to the end of March 2011. After this, M/s. Delite Systems Engineering (I) Pvt. Ltd. was awarded the contract. The present contract is valid for a period of 2 years from 01.08.2014 to 31.07.2016. If any fault or failure in the work carried out is found, the same is brought to the notice of the Contractor or to the Supervisor of the Contractor who get the work done properly. It is for the Contractor to provide maintenance service and it is up to him to deploy the manpower as he deems fit. The contractors pay wages to the workmen directly. The contractor is paid the agreed amount every month for the performance and out of the said amount wages are being distributed to their workers by the Contractor. The Contractor is having separate codes for EPF and ESI. The details regarding date of joining, etc. of the workers are not within the knowledge of the First Respondent. The officials of the First Respondent do not give any instructions to the concerned workers. They only make periodical checks of the work carried out by the Contractor through their workmen. It is to this effect the officials of the First Respondent countersign the log book maintained in which the defects are entered as a matter of record. It is incorrect to state that the contract is sham and nominal. The contract of electrical maintenance is not prohibited under the provisions of Contractor Labour (Regulation and Abolition) Act. The scope of work does not warrant engagement of regular workmen. The concerned workmen had earlier filed Writ Petition No. 3963/1997 before the High Court of Madras to absorb them as direct employees of Air India and the same was dismissed stating that they are not direct employees of Air India. The Writ Appeal filed against the order was subsequently withdrawn. The workmen concerned are not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating its case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W34 and Ext.M1 to Ext.M34.

#### 7. The points for consideration are:

- (i) Whether the workmen concerned are entitled to be regularized in the service of the First Respondent?
- (ii) If not, whether the workers are entitled to any other relief?

#### The Points

8. The dispute was raised in respect of 7 workmen who have claimed regularization with the First Respondent. By the time the reference has reached this Tribunal Alargarsamy one out of the 7 workmen have left the employment. The petitioner has stated in the Claim

Statement that the dispute is being pursued only in respect of the remaining 6 employees. During the time of argument the counsel for the petitioner has stated that Ponnuswamy, another of the workmen concerned also is not pursuing the dispute. So the dispute now concerns only the remaining 5 workmen by name Sekar and Radhakrishnan said to be working as Electrician and Jayapaul, Neelamegam and Kannan working as Electrician Helper.

9. The petitioner union has raised the dispute on behalf of the concerned workmen who are its members. According to the petitioner though the workers are described as Contract Workers actually they are working under the First Respondent, under the supervision and control of the First Respondent. These workers are said to be doing electrical maintenance work, Air Condition Electrical Operations, generator operation, water motor operation, etc. in the administration building, catering building, engineering and stores building and ground support department building in the office complex of the First Respondent at Chennai Airport apart from such operations in the cargo office of Air India located at Old Airport, Meenambakkam at Chennai International Airport. The case of the petitioner is that the concerned workmen have been working for a number of years. The last of them is said to have started to work in the year 1995. It is claimed by the petitioner union that the contract is only camouflage by the First Respondent and actually the concerned workmen were all working for the First Respondent directly. It is stated that they were working in four shifts, the general shift and other three shifts. It is claimed that if not for the service of these workmen the very work at the entire Airport would come to a halt. For this reason, the work done by the concerned workmen are said to be perennial in nature. It is on this basis it is claimed that they are entitled to be regularized in the service of the First Respondent.

10. It is admitted by the First Respondent that the kinds of work described in the Claim statement are being carried out in the office buildings belonging to the First Respondent. However, the stand of the First Respondent is that the work that is carried out is only maintenance and the work is entrusted with the Contractor after complying with all formalities, on annual basis. According to the First Respondent the contractor will be engaging the workmen. Those workmen will be working for the Contractor. They will be under the control and supervision of the Contractor. Payment of wages also is made by the Contractor. There is no dealing between the workers and the First Respondent except ensuring that the contractor is paying minimum wages to the workers. According to the First Respondent it does not even know who are the persons engaged by the Contractor. It will be making monthly payment to the Contractor in terms of the contract only.

11. A contention is seen raised in the Counter Statement that earlier the Hon'ble High Court of Madras

has considered the question whether the concerned workmen are contract workers and a finding has been entered against the workmen and the Writ Appeal that is filed by them challenging the said order has been withdrawn and therefore the order in the Writ Petition subsists and the issue cannot be adjudicated before this forum. In answer to this, the counsel for the petitioner has referred to the judgment of the Supreme Court in AIR INDIA STATUTORY CORPORATION VS. UNITED LABOUR UNION AND OTHERS reported in 1997 9 SCC 377 which has held that employees can seek for regularization if the Contractor does not have the license. However, this judgment was overruled in STEEL AUTHORITY OF INDIA LTD. VS. NATIONAL UNION WATERFRONT WORKERS AND OTHERS reported in 2001 7 SCC 1. According to the petitioner, the Writ Appeal was withdrawn because of the changed position of law laid down in Steel Authority's case wherein the Supreme Court has held that the question whether the contract is sham and nominal can be adjudicated only by the Industrial Adjudicator. So the petitioner was well within its rights to move this forum on the issue.

12. The petitioner has contended in the Claim Statement that one of the Contractors to whom the First Respondent had given contract of electrical maintenance work was a worker and this itself would show that the contract is sham and nominal. It is stated in the Claim Statement that the Second Respondent was earlier represented by one Vijayakumar purporting to be its proprietor but this person was not seen in the field of activity at all. Annadurai who was also working alongwith other workmen is said to be related to Vijayakumar. Annadurai later got permanent appointment with Indian Airlines as Operator and thereafter Annadurai's wife Shanti was depicted as the proprietress of Second Respondent. According to the petitioner this would show that the workmen concerned in the dispute were reporting to the officials of Air India and were working under their supervision. It was brought out during the cross-examination of MW1 examined on behalf of the Respondent that previously Annadurai had owned the contract and thereafter his wife had become the owner. It was also brought out that Annadurai had become a permanent employee of Air India.

13. The counsel for the petitioner has referred to the decision of Apex Court in DHRANGADRA CHEMICAL WORKS VS. STATE OF SAURASHTRA reported in CDJ 1956 SC 115 in which the distinction between the workman and an independent contractor has been considered. It has been held that the broad distinction between a workman and an independent contractor lies in the fact that while the former agrees himself to work, the latter agrees to get other persons to work. A person who agrees himself to work and does work so and is, therefore,

a workman does not cease to be such by reason merely of the fact that he gets other persons to work alongwith him and that those persons are controlled and paid by him and determines whether a person is a workman or an independent Contractor is whether he has agreed to work personally or not. If he has, then he is a workman and the fact that he takes assistance from other persons would not affect his status, it was further held. It was based on the above proposition it was argued by the counsel for the petitioner that Annadurai having been a workman he could not have been the Contractor actually. This proposition advanced by the counsel could not be accepted on the very basis of the judgment of the Apex Court. What the Apex Court has stated is that a workman can act as a Contractor also at the same time. It should be true vice-versa also. A person who is a Contractor could not have any bar being a workman as well. Merely because Annadurai happened to be the workman it could not be stated that his position as a Contractor is only illusory or sham. Whether the contract is real or sham and nominal is a matter to be decided on the facts and circumstances of the case.

14. One contention that has been advanced on behalf of the First Respondent is that the employment of the concerned workmen was litigious in nature and therefore in any case they are not entitled to any relief. This contention is raised on the basis that the concerned workmen had obtained an interim injunction from the High Court of Madras against putting an end to the employment. The concerned workmen had filed Writ Petition No. 24847/2006 before the Hon'ble High Court of Madras for a direction to the Union of India to refer the dispute to this Tribunal for adjudication and direct the First Respondent to maintain status quo till the dispute is adjudicated by this Tribunal. On 07.08.2006 the High Court had passed an order restraining the First Respondent from doing anything which will result in denial of employment to the workmen pending disposal of the Writ Petition. By order dated 18.10.2012 the High Court had directed the Union of India to refer the dispute for adjudication and directed the First Respondent to maintain status quo in respect of the employees. The concerned workmen continued to be in employment consequent to the order. The Second Respondent as well as the subsequent Contractor M/s. Delite Systems Engineering (I) Pvt. Ltd. continued to engage them on the basis of this order, it is stated on behalf of the First Respondent. Thus according to the First Respondent, the concerned workmen were continuing in employment based on the above orders and therefore they are not entitled to regularization. No doubt, the employment of the concerned workmen after 07.08.2006 must have been on the basis of the strength of the order of the High Court and therefore litigious. However, their employment prior to that date could not be said to be litigious. Attendance Registers marked as Ext.W3 to Ext.W24 would show that the concerned workers have

starting working from 1993, 1994, 1996, etc. The period from the dates on which they started to work up to the date of the order of the High Court could not be said to be litigious at all. The counsel for the petitioner has referred to the decision of the Apex Court in OIL AND NATURAL GAS CORPORATION LTD. VS. PETROLEUM COAL LABOUR UNION AND OTHERS reported in 2015 6 SC 494 wherein it has been held that when employer is bound to continue the employee in service in view of Section-33(1) of the ID Act it cannot be stated that the employment is litigious. According to the counsel for the petitioner much earlier than the date on which the High Court passed the order they have raised the issue of regularization and the matter was pending at different forums and the employer could not have altered the position of the concerned workmen to their prejudice pending the dispute as per Section-33(1) and therefore even the subsequent period could not be termed litigious. Even if this argument is accepted, in case it is found that the concerned workmen were employed by the Contractor itself the proposition can be applied only to the Contractor who was the employer. So again it is a matter for consideration whether the contract was real or only sham and nominal as contended by the petitioner.

15. Having disposed the legal issues raised on either side it is time to find out the actual position of the concerned workmen i.e. whether the contract under which they were employed was only namesake and the First Respondent was the actual employer. The very term of reference in the matter is whether the service of the concerned workers working under the Second Respondent can be regularized by the Management of Air India. I have been referring to Ext.W3 to Ext.W24, the attendance registers. Though some of these documents do not refer to the employer at all, in most of them the name of the employer is shown as Kamatchi Amman Electricals, the Second Respondent. It is the case of the First Respondent that it has nothing to do with the concerned workmen that work of electrical maintenance was got done through contract and the workmen, were paid by the Contractor. It is admitted by WW1, one of the concerned workman that at present he is working under M/s. Delite Systems Engineering (I) Pvt. Ltd. which is said to have replaced the Second Respondent pending the dispute. His PF Code is in the name of the Second Respondent. He has further stated that from March 2011 M/s. Delite Systems Engineering (I) Pvt. Ltd. is the Contractor. He further admitted that the First Respondent would be paying lumpsum amount to Delite Systems Engineering (I) Pvt. Ltd. and they will be paying wages to the workers. He is said to have joined one M/s. Dass Electricals who was the Contractor for Indian Airlines in 1989. After M/s. Dass Electricals, the Second Respondent had come in as the Contractor. Even in the Identity Cards marked as Ext.W2 the Second Respondent is shown as the employer.

16. From the nature of work done by the concerned workmen itself it could be seen that it is not work of perennial nature. The Respondent has produced several letters on acceptance of tender, the last one being Ext.W32. Of course, the details of the work as per the contracts are not available along with these documents. However, the subject in the letters is shown as annual electrical maintenance contract. From the very nature of work it could be seen that the concerned workmen could not be attending to the same work everyday. As and when any defect is noticed in any of the equipments, the concerned workmen are expected to carry out maintenance through the Contractor. They will not be doing the same work daily. They will be attending the work at different places on each day as per requirement. Service of the concerned workmen would be required only when the equipments malfunction. This itself would show that the nature of work carried out by them is not perennial. The claim of the concerned workmen that they are doing work which is perennial in nature and therefore are entitled to regularization could not be accepted. They were doing work for Air India through different Contractors. The different Contractors were employing them for work. Throughout they were working under the Contractor only. They were never the employees of the First Respondent so the contract cannot be said to be a camouflage.

17. The counsel for the petitioner has submitted that in case the claim of the concerned workmen for regularization is not accepted, they may be permitted to continue in employment as contract employees. This submission on behalf of the workmen are to be given heed to when the circumstances are taken into account. In spite of change of the Contractors the concerned workmen had continued to do the work of maintenance of electrical equipments in the premises of the First Respondent for several years. One of them had started to work even before 1990. The last of them had started to work in the year 1995. They were solely depending on this work for their livelihood. Considering that they were working for several years continuously, it is only proper that they are allowed to continue in the same position as far as possible.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2015)

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1st Party/ : WW1, Sri T. Jayapal  
Petitioner

For the 2nd Party/ : MW1, Sri S. Iyyaswami  
Management

**Documents Marked :**

**On the petitioner's side**

Ex.No.	Date	Description
Ext.W1	-	Conduct Certificate of Petitioners
Ext.W2	-	Identity Card
Ext.W3	Jan. 1993 to Aug. 1993	Attendance Register
Ext.W4	April 1994 to Dec. 1994	Attendance Register
Ext.W5	Jan. 1995 to Dec. 1995	Attendance Register
Ext.W6	Jan. 1996 to Dec. 1996	Attendance Register
Ext.W7	Jan. 1997 to Dec. 1997	Attendance Register
Ext.W8	Jan. 1998 to Dec. 1998	Attendance Register
Ext.W9	Jan. 1999 to Dec. 1999	Attendance Register
Ext.W10	Jan. 2000 to Dec. 2000	Attendance Register
Ext.W11	Jan. 2001 to Dec. 2001	Attendance Register
Ext.W12	Jan. 2002 to Dec. 2002	Attendance Register
Ext.W13	Jan. 2003 to 15.01.2004	Attendance Register
Ext.W14	16.01.2004 to 15.10.2004	Attendance Register
Ext.W15	16.10.2004 to 15.11.2005	Attendance Register
Ext.W16	16.11.2005 to 15.12.2006	Attendance Register
Ext.W17	16.12.2006 to 15.01.2008	Attendance Register
Ext.W18	16.01.2008 to 15.01.2009	Attendance Register
Ext.W19	16.01.2009 to 15.01.2010	Attendance Register
Ext.W20	16.01.2010 to Dec. 2010	Attendance Register
Ext.W21	Jan. 2011 to Sept. 2011	Attendance Register

Ext.W22	01.10.2011 to 31.07.2012	Attendance Register	Ext.M5	07.11.1997	Order dated 07.11.1997 of the Hon'ble Madras High Court in WP 3963/1997
Ext.W23	01.08.2012 to 31.08.2012	Attendance Register	Ext.M6	03.08.1999	Tender Committee Report
Ext.W24	Sept. 2013 to Aug. 2014	Attendance Register	Ext.M7	23.08.1999	Electrical Maintenance Contract for Air India premises for the period 01.09.1999 to 31.08.2000, issued to 2nd Respondent
Ext.W25	26.09.2001	Representation given by petitioner to respondent	Ext.M8	02.06.2000	Tender Committee Report
Ext.W26	28.11.2001	Representation given by petitioner to respondent	Ext.M9	12.06.2000	Operational Maintenance Contract for Air India premises for the period 16.06.2000 to 15.06.2001, issued to 2nd Respondent
Ext.W27	30.12.2002	Representation given by petitioner to respondent			
Ext.W28	14.03.2011	Representation given by petitioner to respondent	Ext.M10	17.08.2001	Electrical Maintenance Contract for Air India premises for the period 16.08.2001 to 15.08.2002, issued to 2nd Respondent
Ext.W29	30.01.2003	Petition filed before ALC by the petitioner			
Ext.W30	20.03.2003	Minutes of the Proceedings	Ext.M11	11.08.2003	Tender Committee Report
Ext.W31	18.10.2013	Letter given by the Respondent	Ext.M12	12.08.2003	Electrical Maintenance Contract for Air India premises for the period 16.08.2003 to 15.08.2004, issued to 2nd Respondent
Ext.W32	19.10.2013	Representation given by petitioner to standing committee of labour			
Ext.W33	-	Union subscription	Ext.M13	21.06.2004	Order dated 21.06.2004 of the Division Bench of the Hon'ble High Court of Madras in WA 1719/1997
Ext.W34	13.02.2015	Union letter			

**On the Management's side**

Ex.No.	Date	Description			
Ext.M1	08.12.1986	Certificate of Registration bearing No. R II/5/86 issued by the Asstt. Labour Commissioner (Central), Chennai under the Contract Labour (Regulation and Abolition Act, 1970) in respect of Air India Limited, Chennai	Ext.M14	12.08.2005	Tender Committee Report
			Ext.M15	12.08.2005	Operational and Electrical Maintenance contract for Air India premises awarded to M/s. Kamatchi Amman Electricals, Chennai (2nd Respondent) for the period 16.08.2005 to 15.08.2006
Ext.M2	03.04.1995	Electrical Maintenance Contract for Air India premises for the period 01.04.1995 to 31.03.1996, issued to 2nd Respondent	Ext.M16	30.12.2005	Failure of conciliation report submitted by the Conciliation Officer to the Ministry of Labour
Ext.M3	21.04.1997	Tender Committee Report	Ext.M17	20.06.2006	Government of India, Ministry of Labour order dated 20.06.2006 declining a reference of the dispute for adjudication
Ext.M4	28.05.1997	Electrical Maintenance Contract for Air India premises for the period 01.06.1997 to 31.05.1996 issued to 2nd Respondent	Ext.M18	07.08.2006	Interim injunction granted by the Hon'ble High Court of Madras in WP No. 24847/2006
			Ext.M19	28.08.2006	Tender Committee Report

Ext.M20	14.09.2006	Annual Electrical contract for Air India premises awarded to M/s. Kamatchi Amman Electricals, Chennai (2nd Respondent) for the period 16.09.2006 to 15.09.2007	Ext.M28	09.04.2010	Electrical Maintenance contract awarded to M/s. Kamatchi Amman Electricals, Chennai (2nd Respondent) for the period 16.03.2010 to 15.03.2011
Ext.M21	22.08.2007	Scheme of Amalgamation approved by the Ministry of Corporate Affairs under Sections 391-394 of the Companies Act, 1956 (for the amalgamation of Air India Ltd. and Indian Airlines Ltd.), Certificate of Registration orders of Ministry of Corporate Affairs confirming amalgamation of the Companies	Ext.M29	16.03.2011	Tender Committee Report
			Ext.M30	28.03.2011	Electrical Maintenance contract awarded to M/s. Delite Systems Engineering (I) Pvt. Ltd., Chennai for the period 21.03.2011 to 20.03.2012
Ext.M22	22.08.2007	Certificate of incorporation under Companies Act, 1956 relating to National Aviation Company of India Ltd. bearing Corporate Identity No.U62200DL2007GOI61431	Ext.M31	18.10.2012	Order dated 18.10.2012 of the Hon'ble High Court of Madras
Ext.M23	22.08.2007	Certificate of incorporation under Companies Act, 1956 relating to National Aviation Company of India Ltd. bearing Corporate Identity No.U62200DL2007GOI61431	Ext.M32	28.07.2014	Electrical Maintenance contract awarded to M/s. Kamatchi Amman Electricals, Chennai (2nd Respondent) for the period 01.08.2014 to 31.07.2016
Ext.M24	12.03.2009	Tender Committee Report	Ext.M33	-	Challan for ESIC and EPF contribution remitted by M/s. Kamatchi Amman Electricals, Chennai
Ext.M25	13.03.2009	Annual Electrical Maintenance Contract for NACIL premises awarded to M/s. Kamatchi Amman Electricals, Chennai (2nd Respondent) for the period 16.03.2009 to 15.03.2010	Ext.M34	-	Challan for ESIC and EPF contribution remitted by M/s. Delite Systems Engineering (I) Pvt. Ltd., Chennai
Ext.M26	18.03.2009	Certificate of Registration bearing No. R II/13/2009 issued by the Asstt. Labour Commissioner (Central), Chennai under the Contract Labour (Regulation and Abolition Act, 1970) in respect of National Aviation Company of India Limited, Chennai			नई दिल्ली, 7 दिसम्बर, 2015
Ext.M27	27.08.2009	Award in Industrial Dispute No. 69 of 2003 passed by the Hon'ble CGIT-cum-Labour Court, Chennai			<b>का.आ. 2310.—</b> ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, धनबाद के पंचाट (संदर्भ संख्या 27/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/160/2011-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2310.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2012) of the Central Government Industrial Tribunal-cum-Labour Court No.2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-20012/160/2011-IR (C-I)]

M. K. SINGH, Section Officer





प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/192/2004-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2312.** —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.2, Dhanbad (Ref. No. 33/2005) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-20012/192/2004-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT

Shri R. K. Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

#### REFERENCE NO. 33 OF 2005

**PARTIE:** The Regional Organization Secretary, United Coal Workers Union, Kedla UGP, PO: Kedla, Distt: Hazaribagh

Vs.

The Project Officer, Kedla UGP of M/s. CCL, PO: Kedla, Distt: Hazaribagh  
Distt: Hazaribagh

**Order No. L-20012/192/2004-IR(C-I)**  
**dt. 24.03.2005**

#### APPEARANCES:

On behalf of the workman/Union: None

On behalf of the Management: Mr. D. K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 16th November, 2015

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/192/2004-IR(C-I) dt. 24.03.2005

#### SCHEDULE

**“Whether the demand of the United Coal Workers Union from the Management of CCL Kedla; a UGP that the eight workmen (list enclosed) may be regularized in the posts shown against their names with protection of pay they were getting before such regularization, is justified? If so, to what relief are the workmen concerned entitled and from what date?”**

2. Neither the Union Representative nor the workmen are present as against the O.P./Management is represented by Shri D.K. Verma, by his personal appearance. As of now, no further steps has been advanced despite several opportunities with last one on 9.9.2015 on the issue of evidence on the part of the workmen, hanging since 11.02.2014 as the case is related to regularization of the workmen with pay protections.

On going through the whole case record, it has been emerged out quite clear that the workmen, in question or their Representative have lost the interest to push it to final adjudication, or their case appear to have resolved, contrary to the fact the Management Representative has all along registered the presence. As, neither the workmen nor their Representative seem reluctant to move ahead in adjudication for final result, it would be proper and useful to close it down due to unwillingness on the part of the workmen. Hence the case is closed and an Order of 'No Dispute Award' is passed.

R. K. SARAN, Presiding Officer

#### Name of the workmen

SL	Name of the	Designation workmen
1	Sri Bigan Ram	Roof Dresser, Cat. IV
2	Sri Sarffuddin	Drilller, Cat. IV
3	Sri Chhattu Karmali	Elec. Helper Cat. II
4	Sri Shankar Mistry	Mech. Fitter Helper, Cat. III
5	Sri Suraj Saw	Timber Helper, Cat. II
6	Sri Sanichar Oraon	Drillmen Cat. IV
7	Sri Jorge	Drillmen, Cat. IV
8	Sri Bariatue Mahato	Timber Mistry, Cat. II

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2313.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, धनबाद के पंचाट (संदर्भ संख्या 25/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/123/2012-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2313.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 25/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-20012/123/2012-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD

#### PRESENT

Shri R. K. Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

#### REFERENCE NO. 25 OF 2013

**PARTIE:** The General Secretary,  
Koyla Ispat Mazdoor Panchayat,  
Chhatabad No.5, P.O. Katras, Dhanbad

Vs.

The General Manager,  
Govindpur Area of M/s. BCCL,  
PO: Sonardih, Dhanbad

**Order No. L-20012/123/2012-IR(CM-I)**

**dt. 15.01.2013**

#### APPEARANCES:

On behalf of the workman/Union: B. B. Pandey,  
Ld. Advocate

On behalf of the Management: Mr. D. K. Verma,  
Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 9th October, 2015

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/123/2012-IR (CM-I) dt.15.01.2013.

#### SCHEDULE

**“Whether the action of the Management of Jogidih Colliery of M/s. BCCL in dismissing Sri Sheo Lal Hembram, Ex-M/Loader from the services of the Company vide order letter dated 14/16.02.2005 is fair and justified? To what relief is the workman concerned entitled?”**

On receipt of the Order No. L-20012/123/2012-IR (CM-I) dt.15.01.2013 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 25 of 2013 was registered on 28.01.2013 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Counsels appeared respectively, and contested the case.

2. This is case of dismissal of the workman on the ground of absenteeism. There is no other adverse report against the workman. It is very difficult to work in the Mine which is hazardous. Remaining absent is not a new thing. Therefore in the interest of justice, it is felt that one more chance be given to the workman to serve. The workman be taken as a fresh employee in the lowest grade but without back wages whatsoever, and he be kept under probation for two years.

R. K. SARAN, Presiding Officer

नई दिल्ली, 7 दिसम्बर, 2015

**का.आ. 2314.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जे. पी. एविएशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 11/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7.12.2015 को प्राप्त हुआ था।

[सं. एल-11012/07/2015-आईआर (सी-I)]  
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 7th December, 2015

**S.O. 2314.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata (Ref. No. 11/2015) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. J. P. Aviation Ltd. and their workmen, which was received by the Central Government on 7-12-2015.

[No. L-11012/07/2015-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

#### Reference No. 11 of 2015

**Parties:** Employers in relation to the management of  
M/s. J.P. Aviation Services Pvt. Ltd.

AND

Their workman

**Present:** Justice Dipak Saha Ray, Presiding Officer

#### Appearance:

On behalf of the Management : None

On behalf of the Workman : None

State: West Bengal. Industry: Civil Aviation.

Dated: 15th October, 2015.

#### AWARD

By Order No.L-11012/07/2015-IR(CM-I) dated 26.02.2015 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of

the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of M/s. J.P. Aviation Ltd. working as contractor in the premises of M/s. Indigo Airlines, Kolkata in terminating the service of Shri Raja Dey without assigning any reason and also allegedly not paying the legal dues are justified? To what relief the workman Shri Raja Dey is entitled to?”

2. When the case is taken up today for hearing none appears on behalf of any of the parties. It appears from the record that the concerned workman never appeared before this Tribunal inspite of service of notice. Nor did he take any step in the matter.

3. Considering the facts and circumstances, it appears that the concerned workman at whose instance the instant reference has been made is not interested to proceed with the matter. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above, present reference is disposed of by passing a “No Dispute Award”.

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,  
15th October, 2015.

नई दिल्ली, 8 दिसम्बर, 2015

**का.आ. 2315.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 78/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/345/1999-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th December, 2015

**S.O. 2315.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 78/2000) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 8-12-2015.

[No. L-20012/345/1999-IR (C-I)]  
M. K. SINGH, Section Officer

## ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1,  
DHANBAD**

In the matter of an Industrial Dispute under Section  
10(1)(d) of the I.D.Act, 1947.

**Reference No. 78/2000**

## Employers in relation to the management of Sounda (D) Colliery of M/s. CCL

And

### Their workman

**Present :-** Sri R. K. Saran, Presiding Officer

### **Appearance:-**

**For the Employers:-** Sri D.K.Verma, Advocate

**For the workman:-** Sri M.K.Sinha, Advocate

Dated:-19-10-2015

## AWARD

By order No. L-20012/345/1999-IR (C-I) dated 28.01.2000, the Central Government in the Ministry of Labour has, in exercise of the power conferred by clause (d) of Sub-section (1), and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication of this Tribunal:

## **SCHEDULE**

" Whether the refusal of the management of Saund "D" Colliery of M/s. CCL. to provide employment on compassionate ground Sri Dinesh Rajbhar S/o Late Ram Chandra Rajbhar under 9.4.2 of NCWA-V is proper and justified ? If not to what relief Sri Dinesh Rajbhar S/o Late Ram Chandra Rajbhar is entitled ?"

2. The case is received from the Ministry of Labour on 9/02/2000. After receipt of the reference, both parties are noticed. The workman files their written statement on 15.04.2000. And the management files their written statement on 12.09.2000. Two witnesses examined on behalf of the workman and Ext W-1 to W-5 are also marked. But No witness examined on behalf of the management.

3. The case of the workman is that Late Ramchandra Rajbhar was a permanent Trammer at Saunda "D" Colliery

but unfortunately he died on 9.8.92 during the tenure of his employment leaving behind his son dependant son Sri Dinesh Rajbhar. Sri Dinesh Rajbhar s/o the deceased workman submitted entire facts and prayed for providing him employment in place of his father but the management did not provide him employment on the ground that his age is below 18 years. But the management assured Sri Dinesh Rajbhar that the employment will be provided to him as soon as he attain the age 18 years. But after several representation to the management for providing the employment as per NCWA, the management did not take any positive steps in this matter wherein the concerned workman was directed to appear before the Medical Superintendent for determination of his age. He appeared before the Board but there was no effect, and the reference is arose.

4. The management's case is that one workman named Ramchandra Rajbhar was working as Trammer at Sounda "D" Colliery and he died on 9.8.92 before he reached the age of his superannuation. But at the time of death of the aforesaid workman none filed any application for providing employment to him in the capacity of dependant son or dependant wife of the deceased workman.

5. The management is also submitted that the concerned Dinesh Rajbhar was minor son of late Ramchandra Rajbhar and his wife has already predecease him. Therefore, there was no scope for providing employment to any dependant of late Ramchandra Rajbhar at the time of his death. The concerned Sri Dinesh Rajbhar approached the management more than three years after the death of his father claiming himself to be the dependant son and has demanded for his employment. The management submitted that the demand of the sponsoring union for employment of Sri Dinesh Rajbhar is without any merit, is liable to be rejected.

6. This is a case of dependant employment. It is admitted that the applicant before us is the dependant son of the deceased workman. But when he submitted claim for his appointment three years were elapsed since the death of his father. At the time of the death of the workman the applicant was minor. The management refused the claim as it is time barred i.e. not within 18 month for the date of death of the workman.

7. It must be kept in mind while an earning member of family dies, what usually flows on that family. While in this case both mother and father have died leaving minor

son, It is very difficult to imagine the situation. For applying job many formalities i.e. Death Certificate, legal heir certificate etc. is required. It is not easy to get the same within the time frame as there is so many bottle necks.

8. Therefore, the management ought to liberally consider the matter. In the meantime also 15 years and more has already elapsed. Hence it is ordered to take the workman Sri Dinesh Rajbhar in job waiving formalities.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 दिसम्बर, 2015

**का.आ. 2316.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 17/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/108/2011-आईआर (सी-1)]  
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th December, 2015

**S.O. 2316.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 17 of 2012) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-12-2015.

[No. L-20012/108/2011-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1)(d)2A of I. D. Act, 1947

#### Reference No. 17/2012

Employers in relation to the management of East Basuria Colliery, M/s. BCCL

And

Their workman

**Present :-** Sri R. K. Saran, Presiding Officer

**Appearance:-**

**For the Employers:-** Shri S.N.Ghosh, Advocate

**For the workman:-** Shri R.K. Mukherjee, Advocate

State:- Jharkhand Industry :- Coal

Dated : 23-10-2015

#### AWARD

By order No. L-20012/108/2011-IR (CM-I) dated 28/01/2012; the Central Government in the Ministry of Labour has, in exercise of the power conferred by clause(d) of Sub-section (1) and Sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication of this Tribunal:

#### SCHEDULE

“Whether the action of the management of East Basuria Colliery of M/S BCCL in superannuating Sri Krishnadeo Pd. Yadav from the service of the company considering the date of birth as 07/07/1949 instead of 07/07/1953 mentioned in the school leaving certificate and the letter issued by the Medical Officer of the company on 29/20.10.1990 is fair and justified? To what relief the concerned workman is entitled to?”

2. The case is received from the Ministry of Labour on 27/02/2012. After receipt of the reference, both parties are noticed. The Sponsoring Union files their written statement on 06.03.2012. And the management files their written statement on 21.01.2013. one witness have been examined from both side as WW-1 & MW-1 respectively. The workman's document marked as Ext W-1 to W-27 and management's marked as Ext-M-1.

3. The case of the workman is that the concerned workman was initially employed from private owner namely M/S H.D Agarwala & sons. And as per letter of colliery manager of West Godhar Colliery dated 18.8.1970 is treated as date of appointment. Thereafter he become permanent employee of M/s. BCCL having his P. No. 00678847 working as Medical Clerk at East Basuria Colliery and the date of birth of the concerned workman to be accepted as 07.07.1953 but the said date of birth was by mistake not incorporated by the dealing officer.

4. It is also submitted by the workman that the management have introduced the service excerpt in the year 1987 and was required to furnish service particular. The workman furnished the date of birth 07.07.1953 but the management wrote down in service excerpt as

07.07.1949 and qualification was also mentioned as matriculate. The workman raised objection about date of birth and qualification and same was corrected by Sri Raja Ram Prasad. But inspite of raising the date of birth dispute by the workman before the management, it was never forwarded the matter to the competent authority, and the management never treated it seriously and always gave false assurance and ultimately the workman was served superannuation notice w.e.f 31.07.2009 then the reference is arose for correction of his date of birth.

5. The case of the management is that the concerned workman is the president of the Sponsoring Union, he retired from the service of M/s. BCCL w.e.f. 31.07.2009 from East Basuria Colliery. There is no existence of employer-employee relationship after withdrawal of all retirement benefits. The I.D is filed after 9 months of his retirement and after withdrawal of all retirement benefits and the workman is trying to mislead the Tribunal to get an award in his favour

6. It is also submitted by the management that the service excerpt was filled and signed by the concerned workman wherein it appears that the date of birth is mentioned as 07.07.1949. But the service excerpt filed by the union/workman correction made by one Sri R.R. Prasad in the column of qualification and date of birth but without any date and seal which smells the document being manufactured. It is also mentioned that the School Leaving Certificate of class VIII pass shows that the workman left the school on 11.12.1967 and the certificate is obtained on 25.02.2009 i.e. after lapse of 32 years and just 5 month before retirement only for the purpose of filing of I.D case. And other document filed by the union appears to be fabricated. The official document shows his date of birth as 07.07.1949 therefore his retirement is right.

7. Short point to be decided in this reference is whether the workman is aged 07.07.1953 and not 07.07.1949 and his retirement in the year 2009 is premature.

8. The workman submitted that as per School Leaving Certificate and other certificate it is clear that his Date of Birth is 07.07.1953, which he noticed later and raised dispute.

9. One witness each examined from both side i.e. MW-1 is Sri P. N. Singh and WW-1 is Sri K. D. P. Yadav workman himself.

10. The management relied upon one document i.e. form "B" register where the workman has signed and where it is mentioned in Date of Birth column is 07.07.1949 but the workman relied mainly on School leaving Certificate and some other documents.

11. But hearing the parties and perusing document it is seen that the workman has signed on the form "B"

register where his Date of Birth noted as 07.07.1949. The workman is not an illiterate man. He is a literate clerk. The mistake he could not point out earlier is not believed. Had he done so, he would have initially applied for correction. When the management not corrected the same, he has to liberty to file any industrial Dispute at that point of time. when the workman is the president of the Union it is more efficient to raised dispute. But it is not done.

12. He being a Medical clerk and posted as pharmasist he could have filed his HSC certificate and any other authentic certificate. He even has not stated regarding his educational qualification. Even after issuance of W-10 in which the Dy. C.P.M, Kusunda Area directed the workman to file educational qualification certificate. But he has not filed any certificate. Therefore it appears that he has concealed many thing, it is seems that he has not come to Court in clean hands.

13. As per M-1 the concerned workman accepted before the A.L.C Dhanbad that his retirement is a normal retirement. He has also stated in his cross examination that the fact mentioned in Ext.M-1 is correct. He has submits that, In the year 1977, he came to know that there was mistake in his date of Birth. In Ext. M-1 he also submits that after retirement he has been received full Gratuity amount to Rs. 6,33,070.

14. It is also noticed that the document of the workman marked as Ext. W-1 to W-27 in which most documents are objected by the management but the workman was not try to proved the same properly.

15. Moreover School leaving certificate filed by the workman is not accepted as authentic by this Tribunal. Whereas the Form "B" register in which the workman is signed is more euthenics and that is accepted by this Tribunal. Another thing is that the workman raised dispute at a belated stage which is afterthought and seem that it is to get for illegal gain.

16. As per civil appeal No.2331 of 2004 SC, State of MP Vs. Premalal Shrivastava, page 279 in which-- Court to be circumspect, cautious and careful while issuing direction for correction in date of Birth of a Govt. servant- particularly at the fag end of his career or on the eve of his superannuation - Employee cannot claim as a matter of right for correction in his date of birth even if has good evidence.

17 Considering the facts and circumstances of this case, I hold that the action of the management of East Basuria Colliery of M/s. BCCL in superannuating Sri Krishnadeo Pd. Yadav from the service of the company considering the date of birth as 07/07/1949

instead of 07/07/1953 is fair and justified. Hence he is not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 दिसम्बर, 2015

**का.आ. 2317.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 126/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.12.2015 को प्राप्त हुआ था।

[सं. एल-20012/144/1996-आईआर (सी-I)]  
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th December, 2015

**S.O. 2317.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 126/1997) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-12-2015.

[No. L-20012/144/1996-IR (C-I)]  
M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act.  
1947

#### Ref. No. 126 of 1997

Employer in relation to the management of Barora Coal Washery, M/S BCCL

AND

Their workmen

**Present:** -Sri Ranjan Kumar Saran, Presiding Officer

**Appearances :**

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 23-10-2015

#### AWARD

By Order No.L-20012/144/1996-IR (C-I), dated 26/06/1997, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

#### SCHEDULE

**“Whether the demand of the Union for the placement of Shri Sidhi Singh, Loading Munshi as Loader Supervisor in Clerical Grade-I is justified ? If so, to what relief is the concerned workmen entitled?”**

2. After receipt of the reference the parties are noticed, Though they took steps for certain dates, subsequently did not take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime, Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 10 दिसम्बर, 2015

**का.आ. 2318.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स ई.सी.जी. सी. ऑफ इंडिया लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 138/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10.12.2015 को प्राप्त हुआ था।

[सं. एल-17011/2/2015-आईआर (एम)]  
नवीन कपूर, अवर सचिव

New Delhi, the 10th December, 2015

**S.O. 2318.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 138/2015) of the Central Government Industrial Tribunal/ Labour Court-1, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E.C.G.C. of India Ltd and their workman, which was received by the Central Government on 10-12-2015.

[No. L-17011/2/2015-IR (M)]

NAVEEN KAPOOR, Under Secy.

## ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

ID No.138/2015

## Versus

The Deputy General Manager,  
E.C.G.C. of India Ltd.,  
4th Floor, World Trade Tower,  
Barakhamba Road, Connaught Place,  
New Delhi ...Managements

## AWARD

Central Government, vide letter No. L-17011/2/2015-IR(M) dated 04.06.2015, referred the following industrial dispute to this Tribunal for adjudication:

**“Whether the drivers vehicles of ECGC were paid by the company or the company’s executives entitled to provident fund, ESI etc. If not, to what relief are they entitled to?”**

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, the claimant union opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimant union as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant union. Despite sending notice by registered A.D., neither any representative of the claimant union nor any authorized representative on their behalf appeared before the Tribunal so as to pursue their case. Thus, it is clear that the claimant union is not interested in adjudication of the reference on merits.

4. Since the claimant union has neither filed their statement of claim nor have they led any evidence so as to

prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. C. DOGRA, Presiding Officer

Dated : December, 4, 2015

नई दिल्ली, 8 दिसम्बर, 2015

**का.आ. 2319.—राष्ट्रपति, केंद्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, भुवनेश्वर के पीठासीन अधिकारी के रिक्त पद हेतु लिंक अधिकारी के रूप में केंद्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, जबलपुर के पीठासीन अधिकारी श्री राधेश्याम बापूजी पाटले के कार्यकाल को 27.09.2015 से छ: माह की अवधि तक अथवा नियमित पदधारक की नियुक्ति होने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो तब तक के लिए बढ़ाते हैं।**

[सं. ए-11016/03/2009-सीएलएस-II]

संतोष कुमार सिंह, अवर सचिव

New Delhi, the 8th December, 2015

**S.O. 2319.**—The President is pleased to extend the period of additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar entrusted to Shri Radheyshyam Bapuji Patle, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jabalpur for a period of six months with effect from 27.09.2015 or till the appointment of a regular incumbent or further orders, whichever is the earliest.

[No. A-11016/03/2009-CLS-II]  
S. K. SINGH, Under Secy.

नई दिल्ली, 9 दिसम्बर, 2015

**का.आ. 2320.—**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स गौतम स्टोन वर्कस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 28/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.12.2015 को प्राप्त हआ था।

[सं. एल-29012/89/1994-आईआर (एम)]  
नवीन कपुर, अवर सचिव

New Delhi, the 9th December, 2015

**S.O. 2320.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central



**“Whether the action of the Management of M/s. Sub Enterprise, contractor of Indian Oil Corporation Ltd. is justified in denying the charter of demands (As per Annexure-VII) raised by the Union is legal and/or justified? If not, what relief the workmen are entitled for?**

2. When the case is taken up today for hearing, none appears on behalf of any of the parties. It appears from the record that the union at whose instance present reference has been made has not turned up for three consecutive datesinspite of service of notice. From the above conduct of the union it may reasonably be presumed that the union is not at all interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

3. In view of the above facts and circumstances, present reference is disposed of by passing a “No Dispute Award”.

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,  
The 30th November, 2015.

नई दिल्ली, 9 दिसम्बर, 2015

**का.आ. 2322.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स आई.सी.आई.सी.आई. प्रूडेंसियल इंश्योरेन्स कंपनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 41/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.12.2015 को प्राप्त हुआ था।

[सं. एल-17012/19/2010-आईआर (एम)]  
नवीन कपूर, अवर सचिव

New Delhi, the 9th December, 2015

**S.O. 2322.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2011) of the Central Government Industrial Tribunal-cum-Labour Court -2, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ICICI Prudential Life Insurance Co. Ltd. and their workman, which was received by the Central Government on 8-12-2015.

[No. L-17012/19/2010-IR (M)]

NAVEEN KAPOOR, Under Secy.

## ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT - II, ROOM  
NO.33, BLOCK-A, GROUND FLOOR,  
KARKARDOOMA COURT COMPLEX,  
KARKARDOOMA, DELHI 110032**

### Present :

Shri Harbansh Kumar Saxena, Presiding Officer  
**ID. No. 41/11**

Mohd.Afzal Ansari,  
(Manager Business Partner),  
504/2, Upper Ground Floor,  
Flat No. 2, Bandh Road,  
Devli Village, New Delhi-110062 . . . . . Workman

### Versus

The Sr. Manager, HR,  
M/s. ICICI Prudential Life Insurance Co, Ltd.  
3rdFloor, Videocon Tower ,  
Jhandewalan, New Delhi-110005. . . . . Management

### AWARD

The Central Government in the Ministry of Labour vide notification No. L-17012/19/2010 IR(M) dated 23.05.2011 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether Mohd. Afzal Ansari, Manager Business Partner in the ICICI Prudential Life Insurance Company Ltd., is a Workman?”

“If so, whether the action of the management of M/s. ICICI Prudential Life Insurance Company Ltd., Bangalore in terminating the services of Mohd. Afzal Ansar w.e.f. 8/7/2009 is just, fair and legal? What relief the workman is entitled to and from which date?”

On 06.06.2011 reference was received in this Tribunal. Which was register as I.D. No. 41/2011 claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 4.10.2011. Where-in he prayed as follows:-

It is, therefore prayed that the management may kindly be persuaded to reinstate the service of the workman as per his seniority with full back wages alongwith other service benefits of the workman and continuity of services.

Pass any other or further order (s) & relief (s) which this Hon’ble Forum may deem fit and proper in favour of the workman and against the management, in the interest of justice.

Against claim statement management filed written statement on 29.11.2011 through which management prayed as follows:-

In view of the above facts and circumstances, it is therefore most humbly prayed that this Hon'ble Tribunal be pleased to dismiss the statement of claim of the workman in favour of the management and against the workman in the interests of justice.

On 9.4.2013 My Ld. Predecessor framed following issues:-

1. Whether termination of services of the claimant amounts to retrenchment within the meaning of section 2(oo) of the Industrial Disputes Act, 1947?

2. As in terms of reference.

And case was fixed for evidence of the parties.

When workman has not filed his evidence inspite of several opportunities. Then this Tribunal on 15.9.2014 closed the right of workman evidence and fixed 19.11.2014 for management evidence.

On 19.12.2014 management in support of its case filed affidavit of MW1 Mrs. Sarita Gusain who tendered her affidavit on 25.8.2015. Wherein stated as follows:-

I tender my affidavit in my evidence as Ex. MW1/A which bears my signature at point 'A' and 'B'. Contents of affidavit are based on official and personal knowledge through department-I rely upon documents annexed with W.S.

Documents are Exh. MW1/1 to Exh. MW1/4.

Cross nil as none is turning up on behalf of workman.

Management on 1.10.2015 filed written arguments. Wherein management prayed that this Hon'ble Court may kindly be pleased to dismiss the claim, in the interest of justice.

I have heard the arguments of Ld. A/R for the management only as none turn up to argue on behalf of the workman.

#### My issue wise findings as follows:-

Finding on issue No. 1.

Issue No.1 is as follows:-

"Whether termination of services of the claimant amounts to retrenchment within the meaning of section 2(oo) of the Industrial Disputes Act, 1947?"

Burden to prove lies on workman but workman produce no evidence. Hence issue No. 1 is liable to be decided against workman and in favour of management. Which is accordingly decided.

As issue No. 1 has already been decided against workman. So, issue No. 2 is also liable to be decided against workman and in favour of management. Which is accordingly decided.

Reference is liable to be decided against workman and in favour of management. Which is accordingly decided.

Award is accordingly passed.

HARBANSK KUMAR SAXENA, Presiding Officer

Dated:-29/10/2015

नई दिल्ली, 14 दिसम्बर, 2015

**का.आ. 2323.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार त्रावणकोर रबर एंड टी कं. लि. केरल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में नेशनल इंडस्ट्रियल ट्रिब्यूनल, कोलकाता के पंचाट (संदर्भ संख्या 2014 का 1) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.12.2015 को प्राप्त हुआ था।

[सं. एल-51014/1/2000-आईआर (पीजी)]  
अशोक कुमार सिंह, उपनिदेशक

New Delhi, the 14th December, 2015

**S.O. 2323.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I. D. No. Misc. Application No. 01 of 2014) of the National Industrial Tribunal at Kolkata, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Travancore Rubber and Tea Co. Ltd, Kerala and their workmen, which was received by the Central Government on 11-12-2015.

[No. L-51014/1/2000-IR (PG)]

ASHOK KUMAR SINGH, Dy. Director

#### ANNEXURE

#### NATIONAL INDUSTRIAL TRIBUNAL AT KOLKATA

#### Misc. Application No.01 of 2014

U/S. 33A of the I.D. Act, 1947

(Arising out of Reference No. NT-01 of 2000)

**Partiest:** The General Secretary,  
Plantation Employees Union  
Regd. No. 478/86 (CITU),  
Punalur P.O. 691305,  
Kollam District, Kerala State.

.... Applicant.

Vs.

The Managing Director,  
M/s. Travancore Rubber and Tea Co. Ltd.,  
Pattom, P.O. Trivandram – 4,  
Kerala State.  
.... Opp. Party.

**Present :** Justice Dipak Saha Ray, Presiding Officer

**Appearance:**

On behalf of the Applicant: None.

On behalf of the Opp. Party: Mr. S. Sharma,  
Ld. Counsel.

State : National. Industry: Plantation.

Dated: 17th July, 2015.

**AWARD**

This is an application under Section 33A of the Industrial Disputes Act, 1947 filed by the General Secretary, Plantation Employees Union, Punalur P.O. 691305, Kollam District, Kerala State alleging change of service condition of the concerned workmen during the pendency of Reference No. NT-01 of 2000 before this Tribunal.

2. When the case is taken up today for hearing, none appears on behalf of the Applicant inspite of service of notice though the Opp. Party is represented by its Ld. Counsel. It appears from the record that the Applicant is found absent since 17.10.2014.

3. Considering the above facts and circumstances and the conduct of the Applicant it may reasonably be presumed that the Applicant is not at all interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending. In view of the above, present application under Section 33A of the Act is rejected being not moved.

4. An Award is accordingly passed.

**JUSTICE DIPAK SAHA RAY, Presiding Officer**

Dated, Kolkata,  
The 17th July, 2015.

नई दिल्ली, 11 दिसम्बर, 2015

**का.आ. 2324.—**केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्द्वारा सेन्ट्रल सिल्क बोर्ड, बंगलोर के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट,

अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात्:-

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार कपर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस नियमित प्राधिकृत कोई अन्य पदधारी;

- (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
- (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गये उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
- (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा :

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
- (ख) प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संबंधित ऐसे

लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या आसन्न नियोजक की, उसके अधिकारी या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;

(ड.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

(6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/14/2014-एसएस-I]

सुभाष कुमार, अवर सचिव

New Delhi, the 11th December, 2015

**S.O. 2324.**—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of **Central Silk Board, Bangalore** from the operation of the said Act. The exemption shall be effective from the date of issue of notification for a period of one year.

2. The above exemption is subject to the following conditions namely:-

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

- (5) Any Social Security Officer appointed by the Corporation under Sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :-
  - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
  - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
  - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
  - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
    - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
    - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
    - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
    - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
    - (e) exercise such other powers as may be prescribed.

(6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/14/2014-SS-I]

SUBHASH KUMAR, Under Secy.

नई दिल्ली, 14 दिसम्बर, 2015

**का.आ. 2325.**—राष्ट्रपति, श्री शशिधरन, के को 05.11.2015 (पूर्वाह्न) से केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, एर्नाकुलम, के पीठासीन अधिकारी के रूप में 65 वर्ष की आयु तक जो कि 16.12.2017 है अथवा अगले आदेशों तक, जो भी पहले हो, नियुक्त करते हैं।

[सं. ए-19011/03/2015-सीएलएस-II]

एस. के. सिंह, अवर सचिव

New Delhi, the 14th December, 2015

**S.O. 2325.**—The President is pleased to appoint Shri Sasidharan. K. as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam with effect from 05.11.2015 (Forenoon) till he

attains the age of 65 years i.e. upto 16.12.2017 or until further orders, whichever is earlier.

[No. A-19011/03/2015-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 14 दिसम्बर, 2015

**का.आ. 2326.**—राष्ट्रपति, श्री मुरलीधर प्रधान को 23.11.2015 (पूर्वाह्न) से केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय, हैदराबाद, के पीठासीन अधिकारी के रूप में 65 वर्ष की आयु तक जो कि 21.08.2020 है अथवा अगले आदेशों तक, जो भी पहले हो, नियुक्त करते हैं।

[सं. ए-19011/04/2015-सीएलएस-II]

एस. के. सिंह, अवर सचिव

New Delhi, the 14th December, 2015

**S.O. 2326.**—The President is pleased to appoint Shri M urlidhar Pradhan as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad with effect from 23.11.2015 (Forenoon) till he attains the age of 65 years i.e. upto 21.08.2020 or until further orders, whichever is earlier.

[No. A-19011/04/2015-CLS-II]

S. K. SINGH, Under Secy.